

DISSERTATIONS AND DISCUSSIONS

DISSERTATIONS

AND

DISCUSSIONS



POLITICAL, PHILOSOPHICAL, AND HISTORICAL

REPRINTED

CHIEFLY FROM THE EDINBURGH AND
WESTMINSTER REVIEWS.

BY

JOHN STUART MILL

IN FOUR VOLUMES

VOL. III.

SECOND EDITION

LONDON

LONGMANS, GREEN, READER, AND DYER

M.DCCC.LXXV.

LONDON :
SAVILL AND EDWARDS, PRINTERS, CHANDOS STREET,
COVENT GARDEN.

.28413

13.07.01

[The Author reserves the right of Translation.]

CONTENTS OF VOL. III.

	PAGE
THOUGHTS ON PARLIAMENTARY REFORM	1
RECENT WRITERS ON REFORM	47
BAIN'S PSYCHOLOGY	97
A FEW WORDS ON NON-INTERVENTION	153
THE CONTEST IN AMERICA	179
AUSTIN ON JURISPRUDENCE	206
PLATO	275

DISSERTATIONS, &c.

THOUGHTS

ON

PARLIAMENTARY REFORM.

AT the interval of about a generation from the passing of the first Reform Act, by a sort of universal consent the Legislature is about to employ itself in enacting a second. This determination has been adopted in circumstances strikingly contrasted with those by which it is usual for constitutional changes to be ushered in, and, at least immediately, brought about. The change to which all are looking forward, has not been pressed upon the ruling powers by impetuous and formidable demonstrations of public sentiment, nor preceded by signs of widespread discontent with the working of the existing political institutions. It was thought a great thing that the Reform Bill of 1832 could be passed without an armed insurrection: to all appearance, that of 1859 will become law without having required, or occasioned, any unusual amount even of peaceful agitation. And this is the more noticeable, because there has been, at various times since 1832, much

Pamphlet, February 1859.

greater dissatisfaction than at present with public affairs; a much stronger sense of practical grievances, combined with a far greater amount of physical suffering which could, with more or less truth or plausibility, be traced to defects in institutions or in the social system. Yet at none of these times had any proposal of a further Parliamentary Reform the smallest chance of success; while now, every party in the State, and almost every individual politician of mark, is pledged to the support of some such measure. An alteration is to be made in the constitution of Parliament, rather because everybody sees such alteration to be right in itself, than because anybody either vehemently desires it, or is expecting from it any great or conspicuous practical result.

This state of things, so apparently anomalous, is one of the most satisfactory signs of the times, and a significant exemplification of the new character which has been permanently impressed upon the politics of this empire by the great popular triumph twenty-six years ago. The Reform Act, and the mustering and trial of strength between the Progressive and the Stationary forces which filled the fifteen years from 1832 to 1846, have inaugurated Improvement as the general law of public affairs: Improvement in itself, Improvement for its own sake, not such particular improvements only as any section of the public deems called for by its own immediate interest. And the result has confirmed the assertion always made by enlightened Radicals—that a government really inspired by a spirit of 'Improvement,' a government under which there is a fair assurance that whatever in the laws or in their administration comes to be widely

recognised as an evil, will be (by however gradual and cautious a process) corrected, satisfies the political cravings of the British people; and that they are not inclined to push for constitutional changes, further than as these may flow, by natural sequence, from the workings of a progressive government. Such reasonable assurance the British people now have: and the effect is, that while the love of improvement for itself, apart from its connexion with special or personal interests, has a much more positive existence in their minds than it ever had before, they have so full a reliance that anything which they recognise as an improvement will in time be obtained, that they seldom feel stirred up to demand it with loudness and importunity. This is the only explanation why Parliamentary Reform, though there seldom has been a time when there was less of clamorous demonstration in its behalf, is felt by the leaders of all parties, and all sections of opinion, to be a political necessity.

A constitutional reform brought forward in such circumstances; welcomed by a sort of unanimous concurrence of all parties, but not called for ardently, nor likely to be supported vehemently or enthusiastically, by any; cannot be expected to make more than a very moderate change in the existing distribution of political power. No considerable section of existing political men desire more; and the active force out of doors is wanting to enable them to carry it if they did. Whatever is proposed, either by the present Administration, or by any who are likely to succeed them, will be a half-measure; will be of the nature of a compromise; and will appear to many, probably to the

whole body of Democratic Reformers, to be far short of their just claims. A reconstitution of the representative system on fixed and definite principles, is not at present to be looked for. It is not what is promised; and the state of opinion, and of European politics, is not favourable to its being carried. It is, however, indispensable that the Reform should not be merely nominal; that it should be a real change, a substantial improvement, which may be accepted as a step by those whom it will by no means permanently satisfy, and may hold out sufficient promise of good to be really valued. The point for consideration, therefore, is, what are the qualities most valuable in a half-measure: for with less than these, no Reformer ought to be even temporarily satisfied. Now, in a good half-measure of Reform, there are at least two essential requisites. In the first place, it should be aimed at the really worst features of the existing system. Since it does not profess to do everything, it should do what is most required: it should apply a corrective where one is the most urgently needed. Secondly, it should be conceived with an eye to the further changes which may be expected hereafter. This does not mean that it should necessarily be framed with a view to accelerate further changes, but rather to guide and regulate them when they arrive. A legislator is bound not to think solely of the present effects of his measures; he must consider what influence the acts he does now, may have over those of his successors. Whatever change he introduces, should be a step in the direction in which a further advance is, or will hereafter be, desirable. His half-measure should be so constructed as to recognise and

embody the principles which, if no hindrance existed, would form the best foundation of a complete measure.

The first condition, that of breaking in upon the existing system at its worst point, will be in a considerable degree fulfilled by any measure which clears away the small constituencies.

The most peccant element in the present state of the representation is not the small number of the electors, taken in the aggregate. They are too few, doubtless, and they will always be too few while any are excluded whose admission would not deteriorate the quality of the mass. At present, too, admission and exclusion are capricious; the same description of persons are admitted in cities and parliamentary boroughs, who are excluded in all other towns and in the rural districts. Whatever qualification, or variety of qualifications, may be fixed upon, it is reasonable that they should be the same in one place as in another. But these are not the crying evils. They might be removed without making any very material difference, either in the composition of the House of Commons, or in the inducements acting on its members. The most serious mischief is, not that only a fraction of the community have the right to vote, but that the majority of the House is returned by a very small fraction of that fraction. The small boroughs, those which number from 200 to 400 electors, are the seat of all the evils which the Reform Act of 1832 intended, and was believed, to annihilate. Many of them are still pocket boroughs; the members they return are almost as much the nominees of some great family in the neighbourhood, as were the mem-

bers for Gattön and Old Sarum. The others are mostly the prize of the highest bidder. If recent legislation has rendered direct bribery a more hazardous experiment than the candidates like to venture on, success belongs to him who expends most money in opening the public-houses, or in hiring agents, canvassers, printers, and committee-rooms. Local interests being divided, the worst portion of the electors, those who are corrupted by money or by drunkenness, turn the scale. Between the nomination boroughs and the corrupt boroughs, a large portion of the House are still what they were before 1832, either the delegates of individuals, or the representatives of their own purses. Wherever these petty constituencies are not under the thralldom of some one individual, every fresh contested election becomes more and more an affair of mere money. This is a growing mischief, even in the large constituencies; from the very small ones it is almost inseparable: nor is anything else to be expected from them, than that they should become demoralized more and more. The theory professed by anti-reformers is, that political rights should be reserved for property and intelligence. By upholding the small boroughs, they dedicate a large and almost predominant portion of the representation to the needy, the dependent, and the uneducated.

To correct this evil, without throwing down the barrier between the borough and the county constituencies, a change which, even if desirable, is not at present attainable, there is an obvious expedient; to unite the small towns into districts of boroughs, as is already the case in Wales and in Scotland. The

'Parliamentary Representation Bill' introduced by Lord John Russell in 1852, adopted this expedient; but unfortunately in so perverted a shape, as to satisfy nobody, and to create greater anomalies than it cured.

One of the declared principles of Lord John Russell's Bill was, that there should be no disfranchisement; and in this perhaps he may have been in the right; since few, if any, of the small boroughs are so absolutely insignificant as to require their entire exclusion from the representation. But Lord John Russell thought it necessary that every existing small borough should become the nucleus of a separate aggregation of townships. He eked out the constituencies by annexing insignificant places close by, instead of going a little farther off for considerable unrepresented towns; while in no case did he think it admissible to include two places which already returned members to Parliament, in one and the same district. Thus, to take the very first entry in the schedule, Berkshire possesses two small boroughs, only a few miles apart: Abingdon, with 312 electors; Wallingford, with 428. Instead of throwing these places and half a dozen others into one district, Lord John Russell looked out for two still smaller places at double the distance, and added Farringdon to one borough and Wantage to the other; making, instead of one good constituency, two bad ones—as bad as, or very little better than, the present. The next county, Buckinghamshire, contains two boroughs still nearer together, each returning two members, though the one (Marlow) has only 354, the other (Wycombe) but 346 electors. In forming a district it would be

natural to throw these two into one ; and one member is as much as even then their joint importance would entitle them to. Lord John Russell left to each of the boroughs its two members, reinforcing them by four small places, every one more distant from the present boroughs than these are from one another.

While the representation of the small boroughs was thus patched up, a host of towns, dispersed all over the country, far exceeding them in population and importance, were left, as at present, unrepresented. The new places taken in to form a district, never exceeded the smallest scantling which, it was supposed, would afford the minimum of a presentable constituency. Thus Reigate, at that time a nomination borough, requiring to be extended, the town of Dorking was added to it, and nothing more ; while Croydon, Kingston, and Epsom, towns in the immediate neighbourhood, all of them with equal or greater claims to be represented, were put aside.

Had this schedule been adopted, it would have spotted the map of England with groups of small places so capriciously distributed as to bring the very idea of districts of boroughs into contempt, and without mitigating, but rather in some respects increasing, the present causes of complaint. The small constituencies would still have remained small, while, instead of being what they professed to be, they would have been more than ever rural constituencies, in subjection, under any ordinary circumstances, to the neighbouring landed proprietors. The villages of 1000 and towns of 2000 and 3000 inhabitants, which were taken to make up a number, would have been a clear addition to the agricultural influence in the

House. It is just possible, though scarcely probable, that bribery might have been diminished; but the local influences would have gained whatever the direct money-power lost, and the members for the districts would have been merely an inferior sort of county members.

Yet, if the principle of combining several boroughs was once admitted, what course could be more obvious than to take all the present boroughs, and all unrepresented towns of more than a certain amount of population (say, for example, 5000), and leaving out all those, whether existing as boroughs or still to be created, whose importance entitles them to one member, or more than one, of their own, to arrange the others in groups according to geographical convenience, care being taken to give to each group something like the same number of electors. No reason is apparent why this plan was not adopted, except the misplaced scruple against merging two existing boroughs into one. If what is now a borough, is to become one of a group, what difference can it make to the electors whether they are bound up with existing, or only with newly enfranchised co-electors? What could be more absurd than that Calne and Chippenham, both nomination boroughs, and actually conterminous, should (as in Lord John Russell's scheme) subsist as a sort of double star, with each its separate system of planets; or that Amesbury and Downton should be recalled from Schedule A to furnish a supplementary constituency to the little borough of Wilton, instead of adding it to the adjacent city of Salisbury? The proper aggregate number of members for small towns being first, after due consideration, determined, all

places of such size as to be politically entitled to the designation of towns should be admitted to share in it. The greater the number of places included in each district, the better prospect of a creditable choice. The local influences of families and corporations would then have more chance of neutralizing one another; and with the aid of stringent measures against all forms of corruption, there would be some prospect that the choice of representatives might occasionally be made on public rather than on private grounds.

Subsequently to Lord John Russell's abortive attempt, another Reform Bill, to which he was also a party, was brought into Parliament, by Lord Aberdeen's Government. In this second Bill, the principle of grouping boroughs, which had been introduced in so awkward a manner in the former Bill, was dropped altogether; and the older plan, a complete disfranchisement of some boroughs, and a reduction of others from two members to one, was reverted to; the representation, withdrawn from them, being transferred to single towns not at present represented, or added to the representation of those constituencies which were thought entitled to a greater number of members than they possess. Most of the private projects of Reform hitherto promulgated, proceed on the same idea, involving a large amount of disfranchisement. All such schemes are good and commendable, in so far as they get rid of the small and dependent constituencies; but they do so, as it seems to me, in a manner far more objectionable than that of merging those small constituencies in districts of boroughs. For, in the first place, many electors would be entirely

disfranchised who are as well entitled as other people to vote for representatives, though not to have representatives to themselves; and, in the next place, this method falls greatly short of the other in extent of enfranchisement. For the improved repartition of the suffrage by grouping of boroughs provides also for a considerable extension. Even the ten-pound householders of all the unenfranchised towns with more than 5000 inhabitants, would be a large addition to the numerical amount of the constituency, obtained without lowering the qualification, or introducing any change which could alarm timidity in the conditions for the exercise of the suffrage.

If, indeed, every elector in the disfranchised boroughs, and every ten-pound householder in the unrepresented towns, obtains a vote for the county, by the adoption, in the new Reform Bill, of Mr. Locke King's proposal (already once affirmed by the House of Commons), the two objections just mentioned will cease to exist. But in that case those objections will give place to a still more fatal one; for such a measure would be little less than the complete political extinction of the rural districts. Except in the few places where there is still a yeomanry, as in Cumberland, Westmoreland, and in some degree North Yorkshire and Kent, there exists in the agricultural population no class but the farmers, intermediate between the landlords and the labourers. A ten-pound franchise will admit no agricultural labourer; and the farmers and landlords would collectively be far outnumbered by the ten-pound householders of all the small towns in England. To enable the agricultural population to hold its fair share of

the representation under any uniform and extensive suffrage short of universal, it seems absolutely necessary that the town electors should, as a rule, be kept out of the county constituencies. And the sole alternative is to form them, or the great bulk of them, into constituencies by themselves.

It has been stated as an objection to the formation of districts of boroughs, that elections would be rendered more expensive. The candidates, it has been said, would require as many committees as there are boroughs, and other things in proportion. The objection cannot weigh much with reference to the particular question, since every other mode of forming district constituencies would be liable to it in an equal, if not a greater degree. No elections are free from it, except those for single, and even for small towns: for if the town is of any size, the candidates have almost always a plurality of committees for the different quarters or divisions. But the remark points to one of the most conspicuous vices of the existing electoral system; the only one which can dispute pre-eminence with the multitude of small constituencies; and one against which the new Reform Bill, if it is to deserve support, should contain some decided and effectual provision. In a good representative system there would be no election expenses, to be borne by the candidate. Their effect is wholly pernicious. Politically, they constitute a property qualification of the worst kind. The old property qualification, given up by everybody, and at length abolished, only required that a member of parliament should possess a fortune; this requires that he should have spent one. Morally, it is still worse; not only by the profligate and demoralizing

character of much of the expenditure, but by the corrupting effect of the notion inculcated on the voter, that the person he votes for should pay a large sum of money for permission to serve the public. Does any one expect his attorney to pay for liberty to conduct his lawsuit? or his physician to pay for leave to cure him of a disease? On the contrary, he pays them at a high price for undertaking his business. If the office of a member of Parliament were felt to be a public trust, which no one has a moral right to take upon himself for any purpose but that of fulfilling its duties, would it be endured for an instant that, in addition to performing those duties without salary, he should make a large payment besides for the privilege of performing them? Such a practice is the surest proof that to vote for a candidate is regarded either as help given him towards attaining private ends, or at least as a compliment to his vanity, for which he should be willing to pay an equivalent. They must be poor politicians who do not know the vast efficacy of such indirect moral influences; though there is hardly anything which, in this country, is so little considered by statesmen and public functionaries. The incidental circumstances which surround a public act, and betoken the expectation entertained by society in regard to it, irrevocably determine the moral sentiment which adheres to the act in the mind of an average individual. So long as the candidate himself, and the customs of the world, seem to regard the function of a member of Parliament less as a duty to be discharged, than as a personal favour to be solicited, no effort will avail to implant in an ordinary voter the feeling that the

election of a member of Parliament is also a matter of duty, and that he is not at liberty to bestow his vote on any other consideration than that of personal fitness. The necessary expenses of an election, those which concern all the candidates equally, should, it has often been urged, be defrayed either by the municipal body or by the State. With regard to the sources of expense which are personal to the individual candidate, committees, canvassing, even printing and public meetings, it is in every way better that these things should not be done at all, unless done by the gratuitous zeal, or paid for by the contributions, of his supporters. Even now there are several members of Parliament whose elections cost them nothing, the whole expense being defrayed by their constituents. Of these members we may be completely assured that they are elected from public motives; that they are the men whom the voters really wish to see elected, in preference to all others, either on account of the principles they represent, or the services they are thought qualified to render. Every other member, even on the supposition of an honest choice, may, for aught it is possible to know, be elected, not as the best man, but as the best rich man, who can be had.

If it be asked, in what manner the object here pointed out is to be realized, I believe that there is one, and but one, means which would probably be effectual. No mere prohibitory law would accomplish the purpose, but it would probably be effected if every member of Parliament, previously to taking his seat, were required to make a declaration on honour that he had not paid, and a solemn engagement

not to pay, money or money's worth, directly or indirectly, on account of his election. A declaration on honour is still not thought lightly of, by any who, unless by a rare exception, are likely to be returned to Parliament. I am quite alive to the fact that the veracity even of an affirmation thus sanctioned could not be depended on if opinion ceased to enforce it; and that the declaration might, like political oaths, come to be considered a mere form. The great reluctance, however, invariably manifested to require such a disclaimer, even in the case of bribery, shows that it is considered likely to have some efficacy. And I believe that the laxity which prevails on the subject of many of the public declarations required by law, arises from their being exacted for purposes which the public do not, and in most cases ought not, to approve. Opinion tolerates a false disclaimer, only when it already tolerates the thing disclaimed. And I am not aware that the toleration extends to any case in which the obligation is further enforced, as it ought to be in this case, by the penalties of perjury. Let law and opinion conspire to the end that election expenses be suppressed, and a denial on honour will be considered binding.

It has already been remarked, that a Bill such as we may expect, a measure of compromise, which does not profess to make any alteration in fundamentals, but only to introduce such amendments as are consistent with the general outline of the existing arrangements; a Bill, therefore, which cannot satisfy the wishes of those who think the present system radically defective—ought to fulfil two conditions:

Univ. of Toronto Library

20412

13.07.01

it should remove or alleviate the most peccant parts of the existing system; and, as far as it goes, it should be a recognition and embodiment of the principles which are fittest to preside over an entire renovation; so that it may not be an impediment to further improvement, but, on the contrary, a step towards the quarter in which, if anywhere, further improvement is to be looked for. The former of these topics having been considered, the latter, and more difficult, remains. In order to judge how this partial reform may be made conformable to the principles of a thorough reform, it is necessary to consider what these principles are: a subject which for a century past has been often enough discussed, but on which, as on all great subjects, there still remain many things to be said. We should endeavour to set before ourselves the ideal conception of a perfect representative government, however distant, not to say doubtful, may be the hope of actually obtaining it: to the intent that whatever is now done may if possible be in the direction of what is best, and may bring the actual fact nearer, and not further off from the standard of right, at however great a distance it may still remain from that standard. Though we may be only sailing from the port of London to that of Hull, let us still guide our navigation by the North Star.

First, then, in every system of representation which can be conceived as perfect, every adult human being,*

* I pass over the question whether insane persons, or persons convicted of crime, should be exceptions to this general provision. As far as the direct influence of their votes went, it would scarcely be worth while to exclude them. But, as an aid to the great object of giving a moral character to the exercise of the suffrage, it might be expedient that in case of crimes evincing a high degree of insensibility to social obligation, the deprivation of this and other civic rights should form part of the sentence.

it appears to me, would have the means of exercising, through the electoral suffrage, a portion of influence on the management of public affairs. It may be said, that the largest, or a very large portion of the people, in this and other countries, are not fit for political influence; that they would make a bad use of it; that it is impossible to foresee a time when they could safely be trusted with it. I am not prepared to contest all this; but I cannot look upon the necessity of withholding this function from any portion of the community otherwise than as a very great evil; against which it is the bounden duty of governments, of teachers, and of individuals, each in his sphere, to struggle, and never to be contented unless they are making sensible progress towards getting rid of it. It is important that every one of the governed should have a voice in the government, because it can hardly be expected that those who have no voice will not be unjustly postponed to those who have. It is still more important as one of the means of national education. A person who is excluded from all participation in political business is not a citizen. He has not the feelings of a citizen. To take an active interest in politics is, in modern times, the first thing which elevates the mind to large interests and contemplations; the first step out of the narrow bounds of individual and family selfishness, the first opening in the contracted round of daily occupations. The person who in any free country takes no interest in politics, unless from having been taught that he ought not to do so, must be too ill-informed, too stupid, or too selfish, to be interested in them; and we may rely on it that he cares as little for anything else, which

does not directly concern himself or his personal connexions. Whoever is capable of feeling any common interest with his kind, or with his country, or with his city, is interested in politics; and to be interested in them, and not wish for a voice in them, is an impossibility. The possession and the exercise of political, and among others of electoral, rights, is one of the chief instruments both of moral and of intellectual training for the popular mind; and all governments must be regarded as extremely imperfect, until every one who is required to obey the laws, has a voice, or the prospect of a voice, in their enactment and administration.

But ought every one to have an *equal* voice? This is a totally different proposition; and in my judgment as palpably false, as the other is true and important. Here it is that I part company, on the question of principle, with the democratic reformers. Agreeing with them in looking forward to universal suffrage as an ultimate aim, I altogether dissent from their advocacy of electoral districts, understood as a means of giving equal weight to the vote of every individual. They say, that every one has an equal interest in being well governed, and that every one, therefore, has an equal claim to control over his own government. I might agree to this, if control over his own government were really the thing in question; but what I am asked to assent to is, that every individual has an equal claim to control over the government of other people. The power which the suffrage gives is not over himself alone; it is power over others also: whatever control the voter is enabled to exercise over his own concerns, he exercises the same degree of it

over those of every one else. Now, it can in no sort be admitted that all persons have an equal claim to power over others. The claims of different people to such power differ as much, as their qualifications for exercising it beneficially.

If it is asserted that all persons ought to be equal in every description of right recognised by society, I answer, not until all are equal in worth as human beings. It is the fact, that one person is *not* as good as another; and it is reversing all the rules of rational conduct, to attempt to raise a political fabric on a supposition which is at variance with fact. Putting aside for the present the consideration of moral worth, of which, though more important even than intellectual, it is not so easy to find an available test; a person who cannot read, is not as good, for the purpose of human life, as one who can. A person who can read, but cannot write or calculate, is not as good as a person who can do both. A person who can read, write and calculate, but who knows nothing of the properties of natural objects, or of other places and countries, or of the human beings who have lived before him, or of the ideas, opinions, and practices of his fellow-creatures generally, is not so good as a person who knows these things. A person who has not, either by reading or conversation, made himself acquainted with the wisest thoughts of the wisest men, and with the great examples of a beneficent and virtuous life, is not so good as one who is familiar with these. A person who has even filled himself with this various knowledge, but has not digested it—who could give no clear and coherent account of it, and has never exercised his own mind,

or derived an original thought from his own observation, experience, or reasoning, is not so good, for any human purpose, as one who has. There is no one who, in any matter which concerns himself, would not rather have his affairs managed by a person of greater knowledge and intelligence, than by one of less. There is no one who, if he was obliged to confide his interest jointly to both, would not desire to give a more potential voice to the more educated and more cultivated of the two.

This is no justification for making the less educated the slave, or serf, or mere dependent of the other. The subjection of any one individual or class to another, is always and necessarily disastrous in its effects on both. That power should be exercised over any portion of mankind without any obligation of consulting them, is only tolerable while they are in an infantine, or a semi-barbarous state. In any civilized condition, power ought never to be exempt from the necessity of appealing to the reason, and recommending itself by motives which justify it to the conscience and feelings, of the governed. In the present state of society, and under representative institutions, there is no mode of imposing this necessity on the ruling classes, as towards all other persons in the community, except by giving to every one a vote. But there is a wide interval between refusing votes to the great majority, and acknowledging in each individual among them a right to have his vote counted for exactly as much as the vote of the most highly educated person in the community; with the further addition that, under the name of equality, it would in reality count for vastly more, as long as the uneducated so

greatly outnumber the educated. There is no such thing in morals as a *right* to power over others; and the electoral suffrage is that power. When all have votes, it will be both just in principle and necessary in fact, that some mode be adopted of giving greater weight to the suffrage of the more educated voter; some means by which the more intrinsically valuable member of society, the one who is more capable, more competent for the general affairs of life, and possesses more of the knowledge applicable to the management of the affairs of the community, should, as far as practicable, be singled out, and allowed a superiority of influence proportioned to his higher qualifications.

The most direct mode of effecting this, would be to establish plurality of votes, in favour of those who could afford a reasonable presumption of superior knowledge and cultivation. If every ordinary unskilled labourer had one vote, a skilled labourer, whose occupation requires an exercised mind and a knowledge of some of the laws of external nature, ought to have two. A foreman, or superintendent of labour, whose occupation requires something more of general culture, and some moral as well as intellectual qualities, should perhaps have three. A farmer, manufacturer, or trader, who requires a still larger range of ideas and knowledge, and the power of guiding and attending to a great number of various operations at once, should have three or four. A member of any profession requiring a long, accurate, and systematic mental cultivation,—a lawyer, a physician or surgeon, a clergyman of any denomination, a literary man, an artist, a public functionary (or, at

all events, a member of every intellectual profession at the threshold of which there is a satisfactory examination test) ought to have five or six. A graduate of any university, or a person freely elected a member of any learned society, is entitled to at least as many. A certificate of having passed through a complete course of instruction at any place of education publicly recognised as one where the higher branches of knowledge are taught, should confer a plurality of votes; and there ought to be an organization of voluntary examinations throughout the country (agreeably to the precedent set by the middle-class examinations so wisely and virtuously instituted by the University of Oxford) at which any person whatever might present himself, and obtain, from impartial examiners, a certificate of his possessing the acquirements which would entitle him to any number of votes, up to the largest allowed to one individual. The presumption of superior instruction derived from mere pecuniary qualification is, in the system of arrangements we are now considering, inadmissible. It is a presumption which often fails, and to those against whom it operates, it is always invidious. What it is important to ascertain is education; and education can be tested directly, or by much stronger presumptive evidence than is afforded by income, or payment of taxes, or the quality of the house which a person inhabits.

The perfection, then, of an electoral system would be, that every person should have one vote, but that every well-educated person in the community should have more than one, on a scale corresponding as far as practicable to their amount of education. And neither

of these constituents of a perfect representative system is admissible without the other. While the suffrage is confined altogether to a limited class, that class has no occasion for plural voting; which would probably, in those circumstances, only create an oligarchy within an oligarchy. On the other hand, if the most numerous class, which (saving honourable exceptions on one side, or disgraceful ones on the other) is the lowest in the educational scale, refuses to recognise a right in the better educated, in virtue of their superior qualifications, to such plurality of votes as may prevent them from being always and hopelessly outvoted by the comparatively incapable, the numerical majority must submit to have the suffrage limited to such portion of their numbers, or to have such a distribution made of the constituencies, as may effect the necessary balance between numbers and education in another manner.*

* One mode of effecting this has been urged, with considerable emphasis, in a memorial addressed to Lord Palmerston, and bearing the signatures of many persons distinguished in literature and science. It consists in giving to certain classes and professions, considered as of an intellectual character, a representation apart; the persons composing them throughout the country being registered as a separate constituency, and having a large number of representatives separately allotted to them, to be elected by them in local divisions. The object aimed at by this scheme is the same which I have in view; but, with sincere deference to some of those whose names are appended to it, I cannot think that they have chosen an eligible mode of encountering the difficulty. Nothing could be invented more calculated to make the privilege assigned to education, and the educated class itself, unpopular, and to create a permanent opposition and rivalry between the representatives of the educated and those of the presumed uneducated. Neither should I expect that the specially and professionally educated classes would be by any means so certain to return good representatives of their own, as they would be to form a valuable element in a miscellaneous constituency. It is a melancholy truth, but it is one which the experience of all academies and learned or scientific bodies

Since the time is not come for obtaining, or even asking for, a representative system founded on the preceding principles, the point for practical consideration is, what measure it is possible to adopt now, which may in any degree conform to and recognise these principles, and facilitate instead of impeding a further application of them when circumstances may require or admit of it.

One means for this purpose very obviously presents itself. It is universally agreed that the expected measure, whatever else it may contain, shall include a considerable extension of the suffrage: the desirable object will be realized if this extension be made subordinate to an Educational Qualification. Even in the most democratic system of representative government, some sort of educational qualification is required by principle. We must never lose sight of the truth, that the suffrage for a member of Parliament is power over others, and that to power over others no *right* can possibly exist. Whoever wishes to exercise it, is bound to acquire the necessary quali-

establishes, that the suffrages of a select class of intellectual men are rarely given to the most really intellectual of their own number. Not the men of genius who are in advance of the body, and who compel it to advance, but the well-tutored and inoffensive mediocrities who best represent its average composition, are those whom it delights to honour. The man of real eminence, on the contrary, is the candidate whom it could with most effect present to a mixed constituency. In this as in every other case, it is not separating classes of persons and organizing them apart, but fusing them with other classes very different from themselves, which eliminates class interests and class feelings. One who desires to be a legislator should rest on recommendations not addressing themselves to a class, but to feelings and interests common to all classes: the simple as well as the learned should feel him to be their representative; otherwise his words and thoughts will do worse than even fall dead on their minds; will be apt to rouse in them a sentiment of opposition.

fications, as far as their acquisition is practicable to him. I have expressed my conviction that in the best possible system of representation, every person without exception would have a vote; but this does not imply that any one should have it unconditionally; only that the conditions should be such as all could fulfil. The greatest amount of education which can be fairly regarded as within the reach of every one, should be exacted as a peremptory condition from all claimants of the franchise. ..

Society is at present as backward in providing education, as in recognising its claims; and the general standard of instruction in England is so low, that if anything more than the merest elements were required, the number of voters would be even smaller than at present. But reading, writing, and the simple rules of arithmetic, can now be acquired, it may be fairly said, by any person who desires them; and there is surely no reason why every one who applies to be registered as an elector, should not be required to copy a sentence of English in the presence of the registering officer, and to perform a common sum in the rule of three. The principle of an educational qualification being thus established, more might hereafter be required when more had been given; but household, or even universal suffrage, with this small amount of educational requirement, would probably be safer than a much more restricted suffrage without it. Reading, writing, and arithmetic are but a low standard of educational qualification; yet even this would probably have sufficed to save France from her present degradation. The millions of voters who, in opposition to nearly

every educated person in the country, made Louis Napoleon President, were chiefly peasants who could neither read nor write, and whose knowledge of public men, even by name, was limited to oral tradition.

If there ever was a political principle at once liberal and conservative, it is that of an educational qualification. None are so illiberal, none so bigoted in their hostility to improvement, none so superstitiously attached to the stupidest and worst of old forms and usages, as the uneducated. None are so unscrupulous, none so eager to clutch at whatever they have not and others have, as the uneducated in possession of power. An uneducated mind is almost incapable of clearly conceiving the rights of others. There is a great abatement in the dread which people of property once entertained of universal suffrage. Recent example has shown that, if it subverts a constitution, it is as likely to do so in favour of despotism as of democracy. But, whatever be the most probable complexion of the evil to be feared, no lover of improvement can desire that the *predominant* power should be turned over to persons in the mental and moral condition of the English working classes; and no Conservative needs object to making the franchise accessible to those classes at the price of a moderate degree of useful and honourable exertion. To make a participation in political rights the reward of mental improvement, would have many inestimable effects besides the obvious one. It would do more than merely admit the best and exclude the worst of the working classes; it would do more than make an honourable distinction in favour of the educated, and create an additional motive for seeking education.

It would cause the electoral suffrage to be in time regarded in a totally different light. It would make it be thought of, not as now, in the light of a possession to be used by the voter for his own interest or pleasure, but as a trust for the public good. It would stamp the exercise of the suffrage as a matter of judgment, not of inclination; as a public function, the right to which is conferred by fitness for the intelligent performance of it.

Nobody will pretend that these effects would be completely produced by so low an educational qualification as reading, writing, and arithmetic; but it would be a considerable step towards them. The very novelty of the requirement—the excitement and discussion which it would produce in the class chiefly affected by it—would be the best sort of education; would make an opening in their minds that would let in light—would set them thinking in a perfectly new manner respecting political rights and responsibilities. That all should be admitted to the franchise who can fulfil these simple requirements, is not to be expected, nor even desired, unless means were also taken to give to the higher grades of instruction additional or more influential votes. Without such a provision, the educational test adapted for permanency would require to be much more stringent. What should now be pressed on the consideration of practical statesmen is, that any lowering of the pecuniary qualification for the purpose of giving the franchise to a greater number of the working classes, should be combined with the further condition of an educational test. It would not be indispensable to disfranchise, on this ground, any electors already

registered; but upon all new applicants the test should be imperative. It would be a most substantial improvement in the existing representative system, if all householders, or even all five-pound householders, without distinction of sex—for why should the vote-collector make a distinction where the tax-gatherer makes none?—were admitted as electors, on condition of proving to the registering officer that they could read, write, and calculate.

This, then, is one important principle which the expected Reform Bill, without going to any length in innovation which need alarm anybody, may inaugurate. Another principle, only second to this in value, which might also on the present occasion be admitted into the Constitution, is the representation of minorities.

I am inclined to think that the prejudice which undoubtedly exists in the minds of democrats against this principle, arises only from their not having sufficiently considered its mode of operation. It is an eminently democratic principle. The elementary propositions of the democratic creed imply it as an inevitable corollary. Even the government of mere numbers requires that every number should tell in proportion to its amount. What is anti-democratic is, that the minority should be allowed to outweigh the majority; but the principle of universal suffrage requires that, as far as is consistent with practicability, every minority in the constituency should be represented by a minority in the representative body; and a mode of voting which does not keep this object in view, is contrary to popular government; it does not sum up the opinion of the community correctly.

There is no true popular representation if three-fifths of the people return the whole House of Commons, and the remaining two-fifths have no representatives. Not only is this not government by the people, it is not even government by a majority of the people: since the government will be practically in the hands of a majority of the majority. A Parliament may be obtained by universal suffrage, which may represent the opinions of a bare majority of the people; and again, when this Parliament proceeds to legislate, it may pass laws by a bare majority of itself. The governing body, reduced by this double process of elimination, may represent the opinions or wishes of little more than a fourth of the population. If numbers are to be the rule, a third of the people ought not indeed to have two-thirds of the representation, but every third of the people is entitled to a third of the representation; and though there is no possibility of securing this with any degree of precision, it is better to make some approach to it than to ignore minorities altogether.

If the House of Commons were elected by the entire population in a single list, every one would see that the mode of voting would entirely disfranchise the minority. The party which was numerically strongest would rule without opposition, until by its abuse of power it had provoked a change of public sentiment; and then the whole party would be turned out at once, and the same unrestrained rule would pass into the hands of its opponents. People do not fear any similar inconvenience in the present case, because they reckon that the party which is in the minority in some places will have the majority in

others, and that the local minorities will be virtually represented by the nominees of majorities of their own way of thinking elsewhere. And doubtless this is to a considerable extent the fact; and it generally will be so in the case of those great sections of opinion which pervade all classes, and divide society nearly equally. But it will not be so with others. In France, for example, it is probable that the Protestants do not form the numerical majority of any constituency. If the politics, therefore, of the moment were to turn on any question specially interesting them as Protestants, they would be entirely unrepresented. Under universal suffrage, the class of mere manual labourers would everywhere form a large majority in any electoral district grounded solely on a local division of the country. It might happen, therefore, that every single member of the Legislature would represent the opinions and feelings of manual labourers alone.

To enable minorities to be represented without placing them on an equality with majorities, it would be necessary that every constituency should return at least three members; and I venture to suggest that this is a sufficient number, and that no electoral body ought to return more. When men vote for a long list, they usually adopt entire that which is presented to them by some knot of politicians who assume the management of elections. They have no personal knowledge or preference in the case of so large a number, and they consequently elect, as a matter of course, whoever are held forth to them as the candidates of their party. Assuming, then, that each constituency elects three representatives, two modes have

been proposed, in either of which a minority, amounting to a third of the constituency, may, by acting in concert, and determining to aim at no more, return one of the members. One plan is that each elector should only be allowed to vote for two, or even for one, although three are to be elected. The other leaves to the elector his three votes, but allows him to give all of them to one candidate. The first of these plans was adopted in the Reform Bill of Lord Aberdeen's Government; but I do not hesitate most decidedly to prefer the second, which has been advocated in an able and conclusive pamphlet by Mr. James Garth Marshall. The former plan must be always and inevitably unpopular, because it cuts down the privileges of the voter, while the latter, on the contrary, extends them. And I am prepared to maintain that the permission of cumulative votes, that is, of giving either one, two, or three votes to a single candidate, is in itself, even independently of its effect in giving a representation to minorities, the mode of voting which gives the most faithful expression of the wishes of the elector. On the existing plan, an elector who votes for three, can give his vote for the three candidates whom he prefers to their competitors; but among those three he may desire the success of one, immeasurably more than that of the other two, and may be willing to relinquish them entirely for an increased chance of attaining the greater object. This portion of his wishes he has now no means of expressing by his vote. He may sacrifice two of his votes altogether, but in no case can he give more than a single vote to the object of his preference. Why should the mere fact of preference be alone considered,

and no account whatever be taken of the degree of it? The power to give several votes to a single candidate would be, eminently favourable to those whose claims to be chosen are derived from personal qualities, and not from their being the mere symbols of an opinion. For if the voter gives his suffrage to a candidate in consideration of pledges, or because the candidate is of the same party with himself, he will not desire the success of that individual more than of any other who will take the same pledges, or who belongs to the same party. When he is especially concerned for the election of some one candidate, it is on account of something which personally distinguishes that candidate from others on the same side. Where there is no overruling local influence in favour of an individual, those who would be benefited as candidates by the cumulative vote, would generally be the persons of greatest real or reputed virtue or talents.

In the preceding review of the essentials of a new Parliamentary Reform, no mention has been made of the Ballot. I hope to show sufficient reasons why this should be included, not among the things which ought, but among those which ought not, to form part of a measure for reforming the representation. It appears to me that secret suffrage, a very right and justifiable demand when originally made, would at present, and still more in time to come, produce far greater evil than good.

The operation of the Ballot is, that it enables the voter to give full effect to his own private preferences, whether selfish or disinterested, under no inducement to defer to the opinions or wishes of others except as

these may influence his own. It follows, and the friends of the ballot have always said, that secrecy is desirable, in cases in which the motives acting on the voter through the will of others are likely to mislead him; while, if left to his own preferences, he would vote as he ought. It equally follows, and is also the doctrine of the friends of the ballot, that when the voter's own preferences are apt to lead him wrong, but the feeling of responsibility to others may keep him right, not secrecy, but publicity, should be the rule.*

* This is the criterion distinctly laid down by a philosopher who did more than any other man of his generation towards making Ballot the creed of Parliamentary Reformers:—

‘There are occasions on which the use of the ballot is advantageous: there are occasions on which it is hurtful. If we look steadily to the end, to which all institutions profess to be directed, we shall not find it very difficult to draw the line of demarcation.

‘A voter may be considered as subject to the operation of two sets of interests: the one, interests arising out of the good or evil for which he is dependent upon the will of other men; the other, interests in respect to which he cannot be considered as dependent upon any determinate man or men.

‘There are cases in which the interests for which he is not dependent upon other men impel him in the right direction. If not acted on by other interests, he will, in such cases, vote in that direction. If, however, he is acted upon by interests dependent upon other men, interests more powerful than the former, and impelling in the opposite direction, he will vote in the opposite direction. What is necessary, therefore, is to save him from the operation of those interests. This is accomplished by enabling him to vote in secret; for, in that case, the man who could otherwise compel his vote, is ignorant in what direction it has been given. In all cases, therefore, in which the independent interests of the voter, those which, in propriety of language, may be called his *own* interests, would dictate the good and useful vote; but in which cases, at the same time, he is liable to be acted upon in the way either of good or of evil, by men whose interests would dictate a base and mischievous vote, the ballot is a great and invaluable security.

‘There is, however, another set of cases, in which those interests of the voter, which have their origin primarily in himself, and not in

'It is for this reason that no one, either Conservative or Reformer, approves of vote by ballot in *Parliament itself*. A member of Parliament, however secure against misleading influences from without, would often promote his private interest by voting wrong; and the chief security against this violation of his trust, is the publicity of his vote, and the effect on his mind of the opinion which will be formed of his conduct by other people.

Thirty years ago it was still true that in the election of members of Parliament, the main evil to be guarded against was that which the ballot would exclude—coercion by landlords, employers, and customers. At present, I conceive, a much greater source of evil is the selfishness, or the selfish partialities, of the voter himself. A 'base and mischievous vote' is now, I am convinced, much oftener given from the voter's personal interest, or class interest, or some mean feeling in his own mind, than from any fear of consequences at the hands of others: and to these evil influences the ballot would enable him to yield himself up, free from all sense of shame or responsibility.

In times not long gone by, the higher and richer classes were in complete possession of the government. Their power was the master grievance of the

other men, draw in the hurtful direction, and in which he is not liable to be operated upon by any other interests of other men, than those which each possesses in common with the rest of the community. If allowed, in this set of cases, to vote in secret, he will be sure to vote as the sinister interest impels. If forced to vote in public, he will be subject to all the restraint which the eye of the community, fixed upon his virtue or knavery, is calculated to produce; and, in such cases, the ballot is only an encouragement to evil.'—*Mill's History of British India*.

country. The habit of voting at the bidding of an employer, or of a landlord, was so firmly established, that hardly anything was capable of shaking it but a strong popular enthusiasm, seldom known to exist but in a good cause. A vote given in opposition to these influences was therefore, in general, an honest, a public-spirited vote: but in any case, and by whatever motive dictated, it was almost sure to be a good vote, for it was a vote against the monster evil—the overruling influence of oligarchy. Could the voter at that time have been enabled, with safety to himself, to exercise his privilege freely, even though neither honestly nor intelligently, it would have been a great gain to reform; for it would have broken the yoke of the then ruling power in the country—the power which had created and which maintained all that was bad in the institutions and the administration of the State—the power of landlords and boroughmongers.

The ballot was not adopted; but the progress of circumstances has done and is doing more and more, in this respect, the work of the ballot. Both the political and the social state of the country, as they affect this question, have greatly changed, and are changing every day. The higher classes are not now masters of the country. A person must be blind to all the signs of the times, who could think that the middle classes are as subservient to the higher, or the working classes as dependent on the higher and middle, as they were a quarter of a century ago. The events of that quarter of a century have not only taught each class to know its own collective strength, but have put the individuals of a lower class

in a condition to show a much bolder front to those of a higher. In a majority of cases, the vote of the electors, whether in opposition to or in accordance with the wishes of their superiors, is now not the effect of coercion, which there are no longer the same means of applying, but the expression of their own personal or political partialities. The very vices of the present electoral system are a proof of this. The growth of bribery, so loudly complained of previous to the late Act, and the spread of the contagion to places formerly free from it, are evidence that the local influences are no longer paramount; that the electors now vote to please themselves, and not other people. There is, no doubt, in counties and in the smaller boroughs, a large amount of servile dependence still remaining; but the temper of the times is adverse to it, and the force of events is constantly tending to diminish it. A good tenant can now feel that he is as valuable to his landlord as his landlord is to him; a prosperous tradesman can afford to feel independent of any particular customer. At every election the votes are more and more the voters' own. It is their minds, far more than their personal circumstances, that now require to be emancipated. They are no longer passive instruments of other men's will—mere organs for putting power into the hands of a controlling oligarchy. The electors themselves are becoming the oligarchy.

Exactly in proportion as the vote of the elector is determined by his own will, and not by that of somebody who is his master, his position is similar to that of a member of Parliament, and publicity is indispensable. So long as any portion of the community

are unrepresented, the argument of the Chartists against ballot in conjunction with a restricted suffrage, is unassailable. The present electors, and the bulk of those whom any probable Reform Bill would add to the number, are the middle class; and have as much a class interest, distinct from the working classes, as landlords or great manufacturers. Were the suffrage extended to all skilled labourers, even these would, or might, still have a class interest distinct from the unskilled. Suppose it extended to all men—suppose that what was formerly called by the misapplied name of universal suffrage, and now by the silly and insulting title of manhood suffrage, became the law—the voters would still have a class interest, as distinguished from women. Suppose that there were a question before the Legislature specially affecting women; as whether women should be allowed to graduate at Universities; whether the mild penalties inflicted on ruffians who beat their wives daily almost to death's door, should be exchanged for something more effectual; or suppose that any one should propose in the British Parliament, what one State after another in America is enacting not by a mere law, but by a provision of their revised Constitutions—that married women should have a right to their own property. Are not a man's wife and daughters entitled to know whether he votes for or against a candidate who will support these propositions?

It will of course be objected, that these arguments derive all their weight from the supposition of an unjust state of the suffrage: That if the opinion of the non-electors is likely to make the elector vote more honestly, or more beneficially, than he would vote if

left to himself, they are more fit to be electors than he is, and ought to have the franchise : That whoever is fit to influence electors, is fit to be an elector : That those to whom voters ought to be responsible, should be themselves voters ; and, being such, should have the safeguard of the ballot, to shield them from the undue influence of powerful individuals or classes to whom they ought *not* to be responsible.

This argument is specious, and I once thought it conclusive. It now appears to me fallacious. All who are fit to influence electors are not, for that reason, fit to be themselves electors. This last is a much greater power than the former, and those may be ripe for the minor political function who could not as yet be safely trusted with the superior. The opinions and wishes of the poorest and rudest class of labourers may be very useful as one influence among others on the minds of the voters, as well as on those of the Legislature ; and yet it might be highly mischievous to give them the preponderant influence, by admitting them, in their present state of morals and intelligence, to the full exercise of the suffrage. It is precisely this indirect influence of those who have not the suffrage over those who have, which, by its progressive growth, softens the transition to every fresh extension of the franchise, and is the means by which, when the time is ripe, the extension is peacefully brought about. But there is also another and a still deeper consideration, which should never be left out of the account in political speculations. The notion is itself unfounded, that publicity, and the sense of being answerable to the public, are of no use unless the public are qualified to form a sound judg-

ment. It is a very superficial view of the utility of public opinion, to suppose that it does good, only when it succeeds in enforcing a servile conformity to itself. To be under the eyes of others—to have to defend oneself to others—is never more important than to those who act in opposition to the opinion of others, for it obliges them to have sure ground of their own. Nothing has so steadying an influence, as working against pressure. Unless when under the temporary sway of passionate excitement, no one will do that which he expects to be greatly blamed for, unless from a preconceived and fixed purpose of his own ; which is always evidence of a thoughtful and deliberate character, and, except in radically bad men, generally proceeds from sincere and strong personal convictions. Even the bare fact of having to give an account of their conduct, is a powerful inducement to adhere to conduct of which, at least, some decent account can be given. If any one thinks that the mere obligation of preserving decency is not a very considerable check on the abuse of power, he has never had his attention called to the conduct of those who do not feel under the necessity of observing that restraint. Publicity is inappreciable, even when it does no more than prevent that which can by no possibility be plausibly defended—than compel deliberation, and force every one to determine, before he acts, what he shall say if called to account for his actions.

But if not now (it may be said), at least hereafter, when all are fit to have votes, and when all men and women are admitted to vote, in virtue of their fitness,—*then* there can no longer be danger of class

legislation; then the electors, being the nation, can have no interest apart from the general interest: even if individuals still vote according to private or class inducements, the majority will have no such inducement; and as there will then be no non-electors to whom they ought to be responsible, the effect of the ballot, excluding none but the sinister influences, will be wholly beneficial.

Even in this I do not agree. I cannot think that even if the people were fit for, and had obtained, universal suffrage, the ballot would be desirable. First, because it could not, in such circumstances, be supposed to be needful. Let us only conceive the state of things which the hypothesis implies: a people universally educated, and every grown-up human being possessed of a vote. If, even when only a small proportion are electors, and the majority of the population almost uneducated, public opinion is already, as everyone now sees that it is, the ruling power in the last resort; it is a chimera to suppose that over a community who all read, and who all have votes, any power could be exercised by landlords and rich people against their own inclination, which it would be at all difficult for them to throw off. But through the protection of secrecy would then be needless, the control of publicity would be as needful as ever. The universal observation of mankind has been very fallacious, if the mere fact of being one of the community, and not being in a position of pronounced contrariety of interest to the public at large, is enough to ensure the performance of a public duty, without either the stimulus or the restraint derived from the opinion of our fellow-creatures. A man's own particular share

of the public interest, even though he may have no private interest drawing him in the opposite direction, is not, as a general rule, found sufficient to make him do his duty to the public without other external inducements. Neither can it be admitted that even if all had votes, they would give their votes as honestly ~~in~~ secret as in public. The proposition that the electors, when they compose the whole of the community, cannot have an interest in voting against the interest of the community, will be found on examination to have more sound than meaning in it. Though the community as a whole can have (as the terms imply) no other interest than its collective interest, any or every individual in it may. A man's interest consists of whatever he takes interest *in*. Everybody has as many different interests as he has feelings; likings or dislikings, either of a selfish or of a better kind. It cannot be said that any of these, taken by itself constitutes 'his interest': he is a good man or a bad, according as he prefers one class of his interests or another. A man who is a tyrant at home will be apt to sympathize with tyranny (when not exercised over himself): he will be almost certain not to sympathize with resistance to tyranny. An envious man will vote against Aristides because he is called the Just. A selfish man will prefer even a trifling individual benefit, above his share of the advantage which his country would derive from a good law; because interests peculiar to himself are those which the habits of his mind both dispose him to dwell on, and make him best able to estimate. A great number of the electors will have two sets of preferences, those on private, and those on public grounds. The last are

the only ones which the elector would like to avow. The best side of their character is that which people are anxious to show, even to those who are no better than themselves. People will give dishonest or mean votes from lucre, from malice, from pique, from personal rivalry, from the interests or prejudices of class or sect, far more readily in secret than in public. And cases exist—they may come to be very frequent—in which almost the only restraint upon a majority of knaves, consists in their involuntary respect for the opinion of an honest minority. In such a case as that of the repudiating States of North America, is there not some check to the unprincipled voter in the shame of looking an honest man in the face? Since all this good would be sacrificed by the ballot, even in the circumstances most favourable to it—circumstances not likely to be seen realized by any one now alive—a much stronger case is requisite than can now be made out for its necessity (and the case is continually becoming still weaker), to make its adoption desirable, or even tolerable.

For it must be borne in mind that the ballot cannot be, and has not been, defended otherwise than as a necessary evil. Necessary it might have been, but an evil it could never fail to be. The moral sentiment of mankind, in all periods of tolerably enlightened morality, has condemned concealment, unless when required by some overpowering motive; and if it be one of the paramount objects of national education to foster courage and public spirit, it is high time now that people should be taught the duty of asserting and acting openly on their opinions. Disguise in all its forms is

a badge of slavery. No one will require from slaves the virtues of freemen, nor will scan nicely the means by which slaves effect their emancipation. They begin by resisting covertly; but when the time is come for rebelling openly, a man must have the soul of a slave who prefers the slave's weapon for himself, however his distrust of the courage of others may lead him to sanction its employment. And there is truth in what has always been urged by the enemies of the ballot—that, even supposing it necessary, it could only produce its effect at the price of much lying. The friends of the ballot have indulged a faint hope that it would put an end to canvassing. If it really held out this prospect, the force of the objection to it would be considerably weakened; but such a result is not in the nature of man and of things. As long as human beings exist, the most direct mode of obtaining a person's vote will be to ask him for it. People will solicit a promise, even when they can have no positive assurance that the promise is kept; and a man who thinks that he has power over another, and who is disposed to make a tyrannical use of it, will question him about his vote, even when he has no guarantee for obtaining a true answer but the man's veracity, or his awkwardness. The voter might, on the plea of public principle, refuse to give any answer; but, unless he was otherwise known to be a man of unusually high principle, the refusal would justly be considered a sufficient proof that a true answer would disclose what it is his interest to conceal. Supporters of the ballot have argued that the voter might resort to those evasive answers which integrity permits in the case of an impertinent

question; but an evasive answer to a first question only succeeds when made to an equal, who does not consider himself at liberty to ask a second: and besides, the majority of electors have neither address nor readiness for such evasions; and when they really feel themselves in the power of the questioner, a downright lie, enforced by asseveration if doubted, would be their only resource. Reformers may once have been disposed to wink at this evil, in order to prevent the still greater one of bad government; but it is in itself no small item in the account. It would perhaps be a greater evil in this country than in any other. There are but few points in which the English, as a people, are entitled to the moral pre-eminence with which they are accustomed to compliment themselves at the expense of other nations: but, of these points, perhaps the one of greatest importance is, that the higher classes do not lie, and the lower, though mostly habitual liars, are ashamed of lying. To run any risk of weakening this feeling, a difficult one to create, or, when once gone, to restore, would be a permanent evil too great to be incurred for so very temporary a benefit as the ballot would confer, even on the most exaggerated estimate of its necessity.

There is a suggestion of another kind, respecting the mode of voting, which has found a favourable reception from some of the supporters and from some of the opponents of the ballot. It is that of collecting the votes of the electors at their own homes, a voting paper being left at the door, like the memorandum of a tax-collector, and filled up by the voter without the

trouble of going to the poll. This expedient has been recommended, both on the score of saving expense, and on that of obtaining the votes of many electors who otherwise would not vote, and who are regarded by the advocates of the plan as a particularly desirable class of voters. The scheme has been carried into practice in the election of poor-law guardians, and its success in that instance is appealed to in favour of adopting it in the more important case of voting for a member of the Legislature. But the two cases appear to me to differ in the point on which the benefits of the expedient depend. In a local election for a special kind of administrative business, which consists mainly in the dispensation of a public fund, it is an object to prevent the choice from being exclusively in the hands of those who actively concern themselves about it; for the public interest which attaches to the election being of a limited kind, and in most cases not very great in degree, the disposition to make themselves busy in the matter is apt to be in a great measure confined to persons who hope to turn their activity to their own private advantage; and it may be very desirable to render the intervention of other people as little onerous to them as possible, if only for the purpose of swamping these private interests. But when the matter in hand is the great business of national government, in which every one must take an interest who cares for anything out of himself, or who cares even for himself intelligently, it is much rather an object to prevent those from voting who are indifferent to the subject, than to induce them to vote by any other means than that of awakening their dormant minds. The voter who does not care

enough about the election to go to the poll, is the very man who, if he can vote without that small trouble, will give his vote to the first person who asks for it, or on the most trifling or frivolous inducement. A man who does not care whether he votes, is not likely to care much which way he votes; and he who is in that state of mind has no moral right to vote at all; since if he does so, a vote which is not the expression of a conviction, counts for as much, and goes as far in determining the result, as one which perhaps represents the thoughts and purposes of a life. These reasons appear to me decisive against the change proposed, and in favour of the present plan of delivering the vote at a public polling-place: but the places of voting should be sufficiently numerous and convenient to enable the poorest elector to vote without losing his day's wages; and, as already intimated, the expense of the poll should not be a charge upon the candidates, but upon the county or borough, or upon the State.

RECENT WRITERS ON REFORM.

THE present Reform movement, which differs from other similar movements in not having been immediately preceded by any strong manifestation of popular discontent, seems likely to be still further distinguished by the quality of the contributions made by individual thinkers towards the better understanding of the philosophical elements of the subject. There is a natural connexion between the two characteristics. During the storm which preceded and accompanied the Reform discussions of 1831 and 1832, no voice was raised, because none would have been audible, save those which shouted for or against the one thing which the public so loudly cried for. But the present demand for Parliamentary Reform, being in an unusual degree the product of calm reason, leaves room to hope that any appeal to reason may be listened to, and encourages the superior intellects to bring forward any thoughts they possess which seem to them to have a useful bearing upon the questions at issue.

* *Fraser's Magazine*, April 1859.—1. 'A Plea for the Constitution.' By John Austin, Esq., formerly Professor of Jurisprudence at the London University, and Reader on the same subject at the Inner Temple. 1859.

2. 'Political Progress not necessarily Democratic; or, Relative Equality the true Foundation of Liberty.' By James Lorimer, Esq., Advocate. 1857.

3. 'A Treatise on the Election of Representatives, Parliamentary and Municipal.' By Thomas Hare, Esq., Barrister-at-Law. 1859.

From the publications of more or less mark which have been called forth by the prospect of another Parliamentary reform, we select three, among the most distinguished by their thoughtful character, and by the mental qualities of the writers. Their objects, their doctrines, their practical conclusions, are widely different, but they are the productions of highly-instructed and disciplined minds; they all deserve and will repay meditation, and one of them we hold to be the most important work ever written on the practical part of the subject. Before attempting an analysis of Mr. Hare's admirable treatise, we shall endeavour to give some notion of the merits, as well as of what we deem the errors, of the other productions on our list. "

Of the three writers, Mr. Austin alone is opposed to any further Parliamentary reform; the two others are strong reformers, each according to his particular mode of thought. Mr. Austin has claims to an attentive hearing which cannot be lightly estimated. His book on the 'Province of Jurisprudence' stepped at once into the very highest authority on what may be termed the metaphysics of law; though it was only the introduction to a course of lectures, delivered but not printed, every part of which was at least equal in merit to the preliminary portion. Whoever is acquainted either with these or with the writings attributed to Mr. Austin which have been published anonymously, regrets that a mind so fitted by capacity and acquirements for untying the hard knots which the philosophy of law is full of, and which are the great impediment to simplicity and intelligibility in its practice, should have accomplished only a small

part of the work to which his peculiar combination of endowments especially called him. We shall rejoice that he has resumed the pen, even on a question on which we differ with him, if it authorizes us to hope that we may yet see the completion of his great book. The worth, to us, of his present performance, does not lie in his conclusions, but in some of his premises. We receive it as an exposition of what, in the opinion of probably the most intellectual man who is an enemy to further reform, are the specific evils to be apprehended from it. Whoever points out the rocks and shoals with which our course is beset, does us a service which may be all the greater because we are not terrified thereby into renouncing the voyage. Mr. Austin is perhaps no unlikely person to over-estimate some dangers, but he is not a man to conjure up any which are entirely chimerical; and it may readily be admitted that every plan of reform ought to stand his test; ought to show, either that it does not tend to produce the evils dreaded by him, or that its tendency to do so can be counteracted.

The first half of Mr. Austin's pamphlet is occupied by an analytical examination of the actual constitution of this country, and a display of what he deems its characteristic advantages. In his estimate of these, few Englishmen will disagree with him: but when he connects them pre-eminently with those elements in the distribution of political power which further reform may be expected to weaken, several of his observations seem questionable. Thus he enlarges, with reason, on the necessity to the successful working of a free, or even of any constitution, of a spirit of compromise. 'All successful government, and all

prosperous society, is carried on and maintained by a mutual give and take.' As little can he be gainsaid when he affirms that this spirit is remarkably an attribute of English politics. If any one of the three powers in the British constitution exerted the whole of its legal rights, and pressed every difference of opinion to the utmost, the action of the government would be paralyzed, and its energies absorbed, by internal contests, which would induce an ultimate disruption of the whole fabric. It is equally true that this habitual willingness on the part of every constituted authority to acquiesce cheerfully in the necessary conditions of stable government, has been found very difficult to introduce where it did not previously exist: and eminent political thinkers have founded their systems on the belief that this conscientious or prudent self-restraint was too difficult to be ever really practised, and that the co-ordinate powers in a balanced constitution will always struggle with each other, until one of them has completely subordinated the others to itself. On all this we entirely agree with Mr. Austin; but not in the passage which follows:—

'But though this talent for compromise is one of the conditions of happy political society, few nations have possessed it in a high degree; and none but the people of England have ever possessed the degree of it which is one of the principal conditions of enduring free government. . . . The long duration of a system so difficult to work . . . has doubtless arisen to a great extent from the habitual reverence of the several members of the Parliament for their respective constitutional rights, and from the habitual moderation (if not the habitual courtesy) which tempers and sets a measure to their hottest contentions. This habitual

reverence for the constitutional rights of others, and this habitual moderation in Parliamentary battle and victory, have mainly arisen from the breeding of the men who have formed the great majority of the Lower House. If the composition of the House should in this respect deteriorate, the spirit of compromise will be enfeebled, and the difficulty of working the system will be vastly aggravated.'

With submission, we think there is a mistake here. The English are not the only people who have shown an eminent degree of what Mr. Austin calls a 'talent for compromise.' The Americans possess it largely, and have proved it super-abundantly in the course of their history, short as that history is. The only questions on which the Union has been agitated by important differences of opinion are the tariff and the slavery questions; and whenever either of these quarrels has reached a height which threatened seriously to interfere with the working of the national institutions, it has been closed up for the moment by a legislative compromise. The whole history of each is a series of such compromises: and if none of these have been of long duration, it is because, as most Englishmen will now admit, the questions are such as in their nature cannot and ought not to be the subjects of permanent compromise. These facts indicate that Mr. Austin cannot be right in ascribing the temperate and conciliatory spirit of English contests mainly to 'the breeding of the men who have formed the great majority of the Lower House,' a cause which was not found to produce any similar effect on the royalist and aristocratic party in France; though doubtless it has contributed much to the calmness and amenity with which the debates of the

British Parliament have usually been conducted, and which deserve to be placed in the number of the safeguards against precipitate and passionate action on the part of the assembly itself. The compromising temper which English and American politicians have in common, and the want of which is one cause of the repeated failures of liberal institutions elsewhere, is sometimes ascribed to the less inflammable character of their northern blood; but may more rationally be attributed to their greater political experience, and longer possession of free government. They are content to exercise a limited power, because they have never felt or been subject to any power which was not obviously limited. We think Mr. Austin would have been nearer the truth, while even his own argument would not have suffered, if he had attributed this quality in the English and Americans to the complicated and balanced character of their political institutions. Democratic as the American government is, the powers of every magistrate and of every assembly composing it, are narrowly hemmed in by those of other functionaries and public bodies. No American assembly is encouraged by the constitution to believe that its will is law. We agree with those who think that the spirit of conciliation and compromise could with difficulty establish itself in any government which consisted of one sovereign assembly, whether accompanied or not by an hereditary president under a royal title.

Mr. Austin considers the British Government to be not only the most free, but also the most democratical government which has 'governed a great nation through a long and eventful period.' This may be

admitted, so long as the solidity of the Federal and State Governments of America 'has not been tried by time.' But Mr. Austin is unfortunate in the argument he uses to prove that, 'in spirit and effect,' apart from the form of the constitution, the English Government is 'the most democratical of all governments, past and present.' 'The interests and opinions,' he says (p. 10), 'of the entire population of the country (and not only those of the sovereign body), are habitually consulted by the Legislature and by the executive Government. In the United States, the large slave population are excluded from political power, and almost from legal rights; whilst their interests and feelings are set at naught by the Governments, and are scorned or slighted by the great majority of the public.' The American Government is here stated to be practically less democratic than the English, because it disregards the interests and feelings of a portion of the people *quoad* whom the American Government is not a democracy at all, but the closest, hardest, and most exclusive of aristocracies. To have any bearing on the merits of democratic institutions, the comparison should not have been made with the American Federation, but with the free Northern States, which alone have any pretension to be democracies. As well might any one tell us that Europe is a great slave country, meaning by Europe, Russia.

Mr. Austin expatiates on the advantage we derive from the fact that, while the electors are a democratic body, the elected are mostly, in the personal and social meaning of the term, aristocratic. He says (p. 13):—

'The art of statesmanship, like other high and difficult arts, can only be acquired by those who make it their principal business. The aristocracy in question, being men of independent means, can afford to devote themselves to public life; whilst men whose time and thoughts are absorbed by their private affairs, cannot give themselves thoroughly to the concerns of the nation. From the possession of an aristocratical body specially affected to practical politics, the nation derives the well-known advantages which arise from the division of labour. A larger proportion of competent statesmen will naturally be furnished by a body comparatively skilled, than by the bodies (far more numerous) whose attention to public business is necessarily intermittent, and whose knowledge of those interests is therefore necessarily superficial. To this it must be added that, in consequence of the high and undisputed positions occupied socially by the aristocracy in question, they naturally acquire a cool self-possession, a quick insight into men, and a skill in dealing with men, which are specially necessary to statesmen in a free and parliamentary country. From their high social positions, and the peculiar influences acting upon them from the cradle, they are naturally restrained in a more than common degree by the sentiment of gentlemanly honour. As filling those high positions, and as being permanently occupied with public life, they are more obvious to the public eye, and are more restrained by public opinion, than men whose social positions are comparatively humble, and whose public lives are comparatively intermittent and obscure. On account of their independence in respect of pecuniary means . . . they are under smaller temptations than political adventurers to succumb to a ministry of which they conscientiously disapprove, or to flatter their constituencies at the expense of the public interests, in prejudices and illusions which in their hearts they despise.'

Surely this is a large superstructure on a small basis of reality. Whatever may be the advantages of

pecuniary independence in Members of Parliament, and whatever superiority in point of 'gentlemanly honour' may accrue to them from the class to which they principally belong, the advantage of having a body of instructed and trained statesmen and legislators is, we should have thought, almost the last which any one could possibly represent us as deriving from them. The classes spoken of have it in their power to be all that Mr. Austin has described, but how many of them actually are so? Since public opinion began to require some amount of appropriate knowledge and training in the members of an Administration, it has never been possible to find a sufficient number of such men to form a Cabinet, much less a Legislature. Is it not a speaking fact that, at this critical moment, not a man can be thought of as fit to lead the great Liberal party, except one or the other of two noblemen advanced in years? And even they are not thought to be fit absolutely, but only fitter than any one else. We have no desire to see a Parliament of rich elderly manufacturers, but we certainly prefer them to the young fribbles of family who formerly did us the honour to legislate for us. We, too, maintain that statesmanship of any high quality can only be looked for in persons who devote themselves to it as an art. There have been aristocratic governments which were carried on by such persons—the open aristocracy of Rome for example, and the close aristocracy of Venice; and we acknowledge that the influences of unbalanced democracy have a tendency to prevent the formation of such a class. But it answers no good purpose to argue as if we at present enjoyed a benefit

which we neither have nor ever had, and are as little likely to have under the existing mixed government as under a republic. . .

The objections to Parliamentary reform which compose the latter half of Mr. Austin's performance, consist of presumptive objections to any change, and positive ones to the particular changes most widely advocated. Of those which bear against reform in general, the principal one is this: that all practical evils which admit of legislative correction are as likely to be remedied under the present constitution of the Legislature as under any other: that the undiscerning conservatism called into existence by the French Revolution has disappeared, and all parties in Parliament are well disposed towards legal and administrative reforms, which are now impeded by no serious difficulties but those inherent in their subjects, and (we must add) by the private interests, not indeed of the rulers, but of those whom the rulers trust, and by the spirit of routine and obstruction, which is not peculiar to any set of institutions, but common to all established systems. With this modification, we agree to some extent with Mr. Austin. There is a spirit of improvement, common to all parties, in many of the details of government; and it may perhaps be true that there is hardly any beneficial change, demanded by a mature public opinion, which, after a moderate interval, would not have a good chance of being carried, under our present political institutions. For what practical end, then, do we desire a more popular basis for those institutions? Mainly for that of maturing and enlightening public opinion itself. Parliament has another function besides that of

making laws. The House of Commons is not only the most powerful branch of the Legislature; it is also the great council of the nation; the place where the opinions which divide the public on great subjects of national interest, meet in a common arena, do battle, and are victorious or vanquished. This latter function the House of Commons does not fulfil, if the most numerous class, and that which is least favoured by fortune, after it has once begun to have and to express opinions, remains without direct representation there. Besides being an instrument of government, Parliament is a grand institution of national education, having for one of its valuable offices to create and correct that public opinion whose mandates it is required to obey. That which Acts of Parliament and votes of money can do for the political instruction of the people, falls short of what might be done by the discussions in Parliament itself, if those who most need instruction were there in the persons of their representatives, saying their best for their opinions; counted among those whose reason a minister or an orator must appeal to; when they were wrong, some one taking pains to answer them, and to make the answer understood by them: not left, as now, under the gloomy persuasion that their interests are dealt with in their absence, and unheard—that Parliament occupies itself with everything rather than with the burthen which is weighing on their hearts, and even when it busies itself about the same questions, never for an instant looks at them from their point of view. Is it wonderful if they should think that ‘les absents ont toujours tort,’ and should persist in errors when their errors are ignored by

their superiors, and are never met and encountered in equal conflict, with opportunity of explanation and rejoinder?

There is a further practical consideration appropriate to the present time. The non-represented classes, as a body, are just now, to all appearance, peaceful and acquiescent. But they were not always so; we are not far from the days of Chartist insurrections, and monster petitions signed by millions of men. If the existing tranquillity is caused by the people's having grown wiser—expecting more from themselves, and less from what the Government can do in any direct way to improve their condition, the main argument for excluding them from the suffrage is very much abated. But if the cause be lassitude, or despair of success, or that they are at present tolerably prosperous, such times as we have seen not many years ago we shall see again; and concessions which, made at the present calm season, can be accompanied by proper safeguards, may then be wrung from Parliament without any safeguards at all, under the same imminent dangers which prevailed in 1832. Prudence and foresight, therefore, combine with principle in recommending that the present favourable opportunity be made use of for placing our representative system on a footing which can be defended on intelligible principles of justice, and such that the greatest number of persons, consistent with safety, shall have evident cause to be well affected towards it.

Mr Austin proceeds to set forth the evils which he would anticipate, either from universal suffrage, or from any such reform as would vest the predominant power in the lower portion of the middle class. A

House of Commons returned by universal suffrage (which he always supposes unguarded by provisions that would give a share of influence to any but the numerical majority), though it would not, he says, attempt to carry out Socialist theories—

‘Would ruin our finances, and destroy our economical prosperity, by insensate interferences with the natural arrangements of society, which would not be the less pernicious for not being inspired by theory. No man, looking attentively at the realities around him, can doubt that a great majority of the working classes are imbued with principles essentially socialist; that their very natural opinions on political and commercial subjects are partial applications of the premises which are the groundwork of the socialist theories. They believe, for example, very generally, that the rate of wages depends upon the will of the employers; that the prices of provisions and other articles of general consumption, depend upon the will of the sellers; that the wealth of the richer classes is somehow subtracted from their own; and that capital is not an adjuvant, but an antagonist of labour. We might, therefore, expect from a House of Commons representing the prejudices of the non-proprietary class, a minimum rate of wages, a maximum price of provisions and other necessities of life, with numberless other restrictions on the actual freedom of contracting. We might also expect from such an assembly that they would saddle the richer classes, and especially the owners of so-called “realized” property, with the entire burthen of taxation; destroying or diminishing thereby the motives to accumulation, together with the efficient demand for the labour of their own constituents.’—p. 19.

Mr. Austin has put his estimate of what might be, the practical result of a Parliament elected by equal and universal suffrage, at the very worst possible; far worse than we consider at all probable. But *might*,

in a case of this importance, is as conclusive as *would*; and those who look the most hopefully to universal suffrage, seldom propose to introduce it otherwise than gradually and tentatively, with the power of stopping short wherever a tendency begins to manifest itself towards making legislation subservient to the misunderstood class interests of labourers and artisans. But while no rational person would entrust the preponderant power in the State to persons aiming at the objects which Mr. Austin describes, there is no reason why even these should not be represented as one class among others—why they, like so many other classes having sinister interests or absurd opinions, should not have their spokesmen in Parliament, to ventilate their nonsense, and secure attention to their sense and to the facts of their position. Until this is the case, the working classes, with however good intentions on the part of the Legislature, will never obtain complete justice (though they may receive mischievous courtship), and if they did, would never believe that they had obtained it. We will go a step further. We are completely at issue with those who are unable to see that there is a true side to many of the crudest notions of the working classes, and that there is something, and even much, which can be rationally done for them in the direction of what seem their wildest aberrations. From the cast of his mind, we should have thought Mr. Austin one of the likeliest of all men to recognise this; and we would gladly believe that, when he appears to see in the great fact of Socialism only simple ‘insanity,’ as when he calls the revolutionary movements of 1848 an ‘atrocious outbreak,’ he rather gives way to an

impulse of passion than expresses a deliberate judgment.

To any system which should 'give to the lower classes of the vast middle class an unchecked ascendancy in the House of Commons,' Mr. Austin is no less opposed; partly because, as he thinks, any such measure would be a step to universal suffrage, and partly for the following reasons (p. 23):—

'From what is known of the constituencies in which these classes actually predominate, we may infer that the majority of the reformed assembly would probably be composed in no small measure of men endowed with no higher faculties than glibness of tongue and adroitness in managing elections; and ready, moreover, to court their constituents at the cost of the public interests, by bowing to their prejudices and even to their momentary caprices. The aristocracies of birth and social position, and still more the aristocracy of mind, would be generally distasteful to the constituencies. On finance and political economy, on law and the administration of justice, on the education of the lower and superior classes, on the relations of the country to other independent states, and on almost all the subjects of our domestic and foreign policy, the constituencies would think like men who have not considered such subjects, or have considered them slightly, and through the medium of popular prejudices. Sound financiers and political economists, profound theoretical and practical lawyers, men eminent in science and letters, distinguished journalists and philosophical statesmen (such, for example, as Mr. Burke), would not be appreciated by the reformed constituencies, or would even be objects of their positive dislike. . . . According to the true theory of the British constitution, the powers residing in the electoral body of the Commons are completely delegated to the Commons House, insomuch that the members of that assembly are not severally representatives of their respective constituencies, but are representatives of the entire kingdom.

If this theory were generally disregarded in practice . . . the House of Commons would become a congress of ambassadors deputed by communities substantially independent states; and as being provided with several, and often conflicting instructions, they would form a body of representatives incapable of united action. . . . Now it has been shown by frequent experience that the conceptions of Parliamentary Government commonly entertained by the lower middle classes are inconsistent with this necessary theory. In the event of a reform giving to those classes an unchecked ascendancy in the House of Commons, the constituencies would dictate to their representatives their votes on particular questions, and owing to their servile deference to the prejudices and caprices of their constituents, the representatives would pledge themselves very generally to follow their imperative instructions. There is a mischievous and growing tendency in the House of Commons to encroach upon the functions of the Executive Government. . . . The functions thus usurped by the House of Commons are transferred from experienced and responsible to inexperienced and irresponsible hands, while the House, by attending to business for which its constitution unfits it, performs its legislative functions with diminished care, and neglects its important office of supervising and checking the Executive. In the event of a reform such as we are now contemplating, this mischievous and growing tendency would be greatly strengthened. Many of the representatives would be notable vestrymen, or men of the like character—men of limited views, of considerable capacity for details, of untiring activity and of restless and intrusive ambition. Meddling with administrative details would suit their capacity and taste; and by wrenching the business of the Executive from the ministers of the Crown, they would exalt themselves in the eyes of the country, or at least in those of their several localities. The respective functions of the several branches of the Parliament would be imperfectly apprehended by the reformed constituencies, and as they

would naturally sympathize with the aggressive ambition of their representatives, they would back their encroachments on the province of the Crown.'

Could we be disposed to give 'unchecked ascendancy' in Parliament to a single type of any description, the small tradesman is scarcely the one we should select. Yet it is important that real evils should not be exaggerated. The shopocracy, like other powers of darkness, is not so black as it is painted. If the metropolitan districts, to which mainly it owes its bad reputation, do not return many distinguished men, let it be remembered that distinguished men seldom offer themselves for those districts. Men who wish to give their time to other matters than local business, do not like to live in the midst of a numerous and *exigent* constituency. When candidates of any eminence have presented themselves, they have generally been elected. Lord John Russell never lost an election for the City, nor Sir William Molesworth for Southwark. In the second rank of politicians, Sir Benjamin Hawes, Sir William Clay, and others, who sat many years for metropolitan districts, are surely much superior to average members for small boroughs; nor is it any ordinary member of the House of Commons that is entitled to look down on Mr. Ayton, who often says a useful word in Parliament when there is no one else to say it. We think it a mistake also to suppose that middle class constituencies prefer to be represented by persons like themselves. A lord or a baronet, who speaks them fair, and will swallow pledges on all the questions of the day, is the man for them. They do not elect 'vestrymen.' It would be more true to say that

they allow vestrymen to elect for them. Still, there is a foundation of truth for many of Mr. Austin's apprehensions. He has marked some of the dangers to be avoided.

We shall touch only on one more point in Mr. Austin's discourse, and it is one on which we thoroughly agree with him: the importance of adapting our improvements, whenever it is possible, to the framework of the existing Constitution. This is one of the subjects on which knowledge of mankind teaches the most important lessons—on which inexperienced political theorists are most apt to differ from experienced. Until mankind are much more improved than there is any present hope of, even good political institutions cannot dispense with the support afforded by traditional sentiment. 'The principle of public utility, applied to so vast a subject as the constitution of a Sovereign Government, leads generally to an invincible diversity of views.' An attachment resting on authority and habit to the existing Constitution 'in and for itself,' is, as Mr. Austin remarks, in the existing state of the human mind, an almost indispensable condition of the stability of free government; which has the greatest difficulty in taking firm root among any people whose misfortune it is, never to have had institutions capable of inspiring such an attachment. Such a people, when they break entirely with their past, are apt to fall by degrees into a condition of passive indifference, and what Mr. Austin calls political scepticism.

The second work on our list, that of Mr. Lorimer, is not a dissertation on the question of the day, but

an elaborate though concise treatise on the philosophy of government; of which we must of necessity confine ourselves to the parts which have a direct bearing on immediate practice. Mr. Lorimer is as much an enemy as Mr. Austin to the absolute dominion of the numerical majority; perhaps even more so: for Mr. Austin's quarrel with the multitude turns chiefly, it would seem, on their existing errors and prejudices, which may admit of removal; but Mr. Lorimer deems their autocracy to be unjust in itself, as well as destructive in its consequences. With Aristotle, Polybius, and others of the ancients, he regards the democracy of numbers as the 'final form of degeneracy of all governments;' inasmuch as, to the evils of every other government, the natural progress of democracy is a spontaneous corrective; but when democracy has itself become predominant, there is no other growing influence by which its characteristic evils can be kept under; society has then reached the last step of the ladder, and the next move can only carry it over the top, to begin again at the bottom with the despotism of one. But Mr. Lorimer is no preacher of despair; nor is the course he recommends that of a sullen opposition to the claims of the numerical majority. His hope is, by 'removing the sources of theoretical conflict between political doctrines which have hitherto been supposed to be irreconcilable, and showing the possibility of their simultaneous recognition,' to 'pave the way for a safer progress on a road which not Englishmen only, but every civilized people, must inevitably tread.' It is useless to resist a natural law face to face; we should endeavour, by availing ourselves of other

natural laws, to convert it from a peril into a blessing. Mr. Lorimer thinks it neither just nor practicable, finally to exclude any one from a vote;* and he would apparently have little objection even to immediate universal suffrage. But it must not be *equal* suffrage. Mr. Lorimer would give a voice to every one, but a more potential voice, by means of plurality of voting, to those classes who, either because they are presumably more enlightened than the majority, or merely because their biasses are different, form the natural counterpoise.

This is the chief practical idea of Mr. Lorimer's work; and there must be something in it apparently well adapted to the needs of the present time, since, new as it is in speculation, it has occurred almost simultaneously to three writers of very different schools, each of them probably—the last certainly—without any knowledge of the other two: Mr. Lorimer, Lord Robert Cecil (in the 'Oxford Essays'), and the author of the present article, in a pamphlet entitled 'Thoughts on Parliamentary Reform.' It is a suggestion which deserves, as well as requires, unprejudiced consideration. Its merit is, that it affords a basis of settlement which can be, with their eyes open, accepted by both parties. All arguments grounded on probable dangers fall dead and meaningless on the minds of those who have the physical force. Very few individuals, and no classes, ever were withheld from seeking power for themselves, by predictions of the bad use they would make of it. It

* He seems disposed to exclude women (see note to p. 213), not because he wishes them to have no influence, but because he thinks their indirect influence sufficient. We shall see that if he applied this standard of judgment in all cases, it would upset his whole theory.

is their sense of justice that must be appealed to, and to do that with effect, what is proposed must be visibly just. No one who has begun to concern himself about politics will think it just that his opinions and wishes should be counted for nothing at all, in matters in which his greatest interests are involved. Such a political arrangement, considered as final, is revolting both to the universal conscience, and to the sense of dignity which it is desirable to encourage in every human being. But it is a very different thing when the question is between, not some influence and none, but a greater influence and a less. Between something and nothing, the ratio, morally and mathematically, is infinite; between less and more, it is finite and appreciable. No one feels insulted and injured by the admission that those who are jointly interested with himself, and more capable, ought to have greater individual weight in the common deliberations.

But, proportional to the value of the principle, would be the mischief of applying it, misunderstood and perverted from its purpose. Its excellence is, that while it fulfils the demands of expediency, it approves itself to the natural sense of justice. If plural voting were made to depend on conditions which cannot possibly commend themselves to the conscience of the majority; if, as Lord Robert Cecil proposes, the additional votes were given, not to the educated as such, but to mere riches, as measured by taxation; the whole scheme would be looked upon as nothing but a trick for rendering the concession of the suffrage nugatory: it would be for ever, or for a long period, discredited and depopularized, and would

lose all its chances of serving as a permanent barrier
against the class-legislation of manual labourers.

What justice can any one be expected to see in his having only one vote, while others have more than one, not because he has less knowledge and ability, but because he is less fortunate? Lord R. Cecil, and those who agree with him, lay great stress upon the analogy of a joint-stock company, in which every shareholder has a number of votes bearing some proportion to the number of shares belonging to him. As if the business of government, like that of a mercantile association, were concerned only with property! The directors of a company exist as such, solely to administer its capital, and have no power of causing to the subscribers either good or harm, except through the interest they possess in that. But the stake which an individual has in good government is far other than his *κτησιδιον**—nothing less than his entire earthly welfare, in soul, body, and mind. The government to which he is subject has power over all his sources of happiness, and can inflict on him a thousand forms of intolerable misery. Even as regards property, the stake of the day labourer is not measured by the little he calls his own, but by the bond that unites his interest, no less than that of the rich, with the general security of property; which could not be impaired without rendering his means of employment and subsistence more scanty and precarious.

Our objections to Lord Robert Cecil apply in some degree to Mr. Lorimer, though the latter considers riches not as a title to power in themselves, but as an

* Epictetus.

evidence of education ; and would give plurality of *votes not to property alone, but to all reasonable presumptions of superior intelligence.* Mr. Lorimer has, however, a general theory of government, from which this and most of his other practical recommendations are presented as corollaries. He thinks that the constitution of the Legislature should be an exact mirror of the existing constitution of society. He would have the national polity recognise, on the one hand, the just claims, together with the intrinsic powers, of man as man ; but also, on the other, all *de facto* social inequalities. He is of opinion that each person should have an amount of power assigned to him by political institutions, as nearly identical as the imperfection of human arrangements will admit, with the influence he actually exercises :—

‘The sum of *influences* should stand over against the sum of *individual sentiments*, and the institutions of the State should be the expression of the former, not of the latter. As regards the individual, whatever may be the amount of influence which belongs to his character in society generally, whether it be greater or less than that of a simple human unit, to the benefit of that influence in regulating the public and private laws of the country, and to nothing more, is he entitled. If the voice of one man be ten times as powerful as that of another, then he contributes ten times as much to swell that general voice, of which voice the laws are the articulate utterance. But as the State can never take cognizance of individual importance directly, the principle of classification becomes indispensable,’ &c.—p. 17.

‘The perfection of social organization in all its forms, from the simplest to the most complex, will be in direct proportion to the completeness with which it recognises the inequalities which exist among the members of the society with which it deals.—(p. 49.) The office of the suffrage is

to give political expression to the social powers actually existing in the community.'—(p. 226.)

And more fully as follows (p. 227):—

'The partial character of the representation which is secured by the universal equal suffrage, and its consequent inadequacy to satisfy the conditions of the suffrage as we have defined them, comes out perhaps most clearly of all when we consider that, in addition to depriving some classes of the political influence corresponding to their social position, and thus to a certain extent disfranchising them, it deprives every individual, to whatever class he may belong, of the whole direct political influence which corresponds to the social influence which he has acquired. A and B, at the age of twenty-one we shall say, are both fairly represented by the manhood suffrage. At the age of forty, by a life of virtuous effort, A has merited and obtained the consideration of his fellow citizens; and his case will be no unusual one if his influence, whether for good or evil, has increased tenfold. In his person, consequently, now centre the *pouvoirs de fait* to ten times the extent to which they belonged to him at the former period of his life. B, on the contrary, differs from what he was, only in having lost the *potentiality* of influence, which renders every man important at the commencement of his career. He has done and suffered nothing to forfeit his public rights. He is neither a criminal, a lunatic, nor a pauper; and the influences of a human unit still are his. This, however, is but one-tenth of that which now belongs to A, and a suffrage which establishes an equality between these two individuals consequently leaves nine-tenths of A's actual social influence unrepresented. Can it be said of such a suffrage that it actually translates social into political power?'

Now this theory, as it seems to us, is not only erroneous, but involves some confusion of ideas. If by the social influence of A we are to understand (as is the most obvious interpretation) the power he ex-

ercises over the convictions and inclinations of others through the affection with which he inspires them, or the high opinion they entertain of him, all this influence he will possess under equal and universal suffrage. Indeed, under no suffrage *but* that which is equal and universal, *can* his political influence be exactly co-extensive with his moral influence, measured by the number of persons who look up to his judgment, and are willing to accept him as their leader. If besides this influence, supposed to be ten times that of B, he has also ten votes of his own to B's one, the effect is not, as Mr. Lorimer professes, to recognise, but to double, A's superiority of importance. It is for the very opposite reason to Mr. Lorimer's, that the third writer to whom we have referred made the suggestion of giving a number of votes proportional to degree of education, as indicated by whatever tests, other than that of wealth, may be the most truly discriminative. He proposed it, not because educated persons have already a greater influence, but because, though they ought to have that influence, yet without some such provision they possibly might *not*.

In so far, on the other hand, as the existing social influences contemplated by Mr. Lorimer include the power which one person exercises over others, not through his personal superiority, but his social status, and above all, that which is exercised not through their spontaneous feelings, but their personal interests, the doctrine is liable to still graver objections. These influences are of society's own making, and it cannot be necessary that society should bend to forces created by itself, as it does to laws of nature over which it has no control. If a peer, simply by being a peer,

exercises social influence, it is a vicious circle to maintain that the Constitution ought for that reason to give him additional political influence, when the peerage and its influences only exist at all because the Constitution wills it. Before recognising and doubling this influence, there is a preliminary question to be settled—whether the influence is beneficial. Even in the case of influences not wholly the creation of law, but which can be increased or diminished by it, such as those of wealth, it is indispensable to consider whether they are salutary influences; and if so, to what degree; since if they exist beyond the degree which is salutary, it may be a merit and not a fault in the system of suffrage that by taking no notice of these influences, it not only avoids strengthening, but does something towards weakening them. For though we concede to Mr. Lorimer that a Government cannot for long together be better than the collective mind of the community, it can do a great deal to uphold or to undermine the social influences which either pervert or improve the collective mind.

We have spoken of Mr. Lorimer's theory as he himself enunciates it; not precisely as he applies it, for he is often willing that in apportioning political influences according to social influence, the indirect political influence already possessed should be counted as part. We wonder he does not see, that for the purposes of the present question it is the whole. Under a limited suffrage, indeed, it is within possibility that persons or classes may possess a social influence not represented by any corresponding political one: but under equal and universal suffrage this is impossible; all social influences tell politically at

their full value, except indeed those with which the *ballot would interfere*; and if Mr. Lorimer thinks that these ought not to be interfered with, he should be an enemy to the ballot, but not to equal and universal suffrage. We assume in this argument, that the suffrage is accompanied with such auxiliary arrangements as may prevent the virtual disfranchisement of minorities; for while this disfranchisement continues to exist as at present, the suffrage would not be really equal and universal, whatever it might be called.

There is much more that we would gladly notice in Mr. Lorimer's book, which contains many shrewd remarks, and some noble thoughts and aspirations, in the chapters entitled 'By what means may the public spirit be influenced and directed?' 'Of the leaders of thought, scientific and popular;' 'Of the universal duty of active-mindedness,' and elsewhere. He has also a negative merit, in our eyes not inconsiderable: he does not give in to the sophistical doctrine of a representation of interests. This theory owes all its plausibility to being mistaken for a principle from which it is totally distinct. As regards interests in themselves, whenever not identical with the general interest, the less they are represented the better. What is wanted is a representation, not of men's differences of interest, but of the differences in their intellectual points of view. Shipowners are to be desired in Parliament, because they can instruct us about ships, not because they are interested in having protecting duties. We want from a lawyer in Parliament his legal knowledge, not his professional interest in the expensiveness and unintelligibility of the law.

Commending Mr. Lorimer's treatise to the attention of students in politics, we pass to a book in our opinion of far superior value: in which, for the first time, a way is really shown to that reconciliation and simultaneous recognition of the best principles and ends of rival theories, which the generality of political writers have despaired of, which Mr. Lorimer aims at, but which Mr. Hare actually realizes, and has not only illuminated it with the light of an advanced political philosophy, but embodied it in a draft of an Act of Parliament, prepared with the hand of a master in the difficult art of practical legislation.

Though Mr. Hare has delivered an opinion—and generally, in our judgment, a wise one—on nearly all the questions at present in issue connected with representative government; the originality of his plan, as well as most of the effects to be expected from it, turn on the development which he has given to what is commonly called the Representation of Minorities. He has raised this principle to an importance and dignity which no previous thinker had ascribed to it. As conceived by him, it should be called the real, instead of nominal, representation of every individual elector.

That minorities in the nation *ought* in principle, if it be possible, to be represented by corresponding minorities in the legislative assembly, is a necessary consequence from all premises on which any representation at all can be defended. In a deliberative assembly the minority must perforce give way, because the decision must be either aye or no; but it is not so in choosing those who are to form the deliberative body: *that* ought to be the express image of

the wishes of the nation, whether divided or unanimous, in the designation of those by whose united councils it will be ruled; and any section of opinion which is unanimous within itself, ought to be able, in due proportion to the rest, to contribute its elements towards the collective deliberation. At present, if three-fifths of the electors vote for one person and two-fifths for another, every individual of the two-fifths is, for the purposes of that election, as if he did not exist: his intelligence, his preference, have gone for nothing in the composition of the Parliament. Whatever was the object designed by the Constitution in giving him a vote, that object, at least on the present occasion, has not been fulfilled: and if he can be reconciled to his position, it must be by the consideration that some other time he may be one of a majority, and another set of persons instead of himself may be reduced to ciphers: just as, before a regular government had been established, a man might have consoled himself for being robbed, by the hope that another time he might be able to rob some one else. But this compensation, however gratifying, will be of no avail to him if he is everywhere overmatched; and the same may be said of the elector who is habitually outvoted.

Of late years several modes have been suggested of giving an effective voice to a minority; by limiting each elector to fewer votes than the number of members to be elected, or allowing him to concentrate all his votes on the same candidate. These various schemes are praiseworthy so far as they go, but they attain the object very imperfectly. All plans for dividing a merely local representation in unequal

ratios, are limited by the small number of members which can be, and the still smaller which ought to be, assigned to any one constituency. There are considerable objections to the election even of so many as three by every constituent body. This, however, under present arrangements, is the smallest number which would admit of any representation of a minority; and in this case the minority must amount to at least a third of the whole. All smaller minorities would continue, as at present, to be disfranchised; and in a minority of a third, the whole number must unite in voting for the same candidate. There may therefore be a minority within the minority who have sacrificed their individual preference, and from whose vote nothing can with certainty be concluded but that they dislike less the candidate they voted for, than they do the rival candidate.*

Mr. Hare offers an outlet from this difficulty. The object being that the suffrages of those who are in a minority locally, should tell in proportion to their number on the composition of the Parliament; since this is *all* that is required, why should it be imperative that their votes should be received only for some one who is a *local* candidate? Why might they not give their suffrage to any one who is a candidate anywhere, their number of votes being added to those which he may obtain elsewhere? Suppose that a comparison between the number of members of the House and of registered electors in the kingdom, gives a quotient of

* * These semi-dissentients might even amount to a majority of the minority; for (as Mr. Hare remarks) if fifty persons agree to combine their strength, who, left to themselves, would have divided their votes among ten candidates, six of the fifty may impose their candidate on all the rest, though perhaps only relatively preferred by them.

2000 as the number of electors per member, on an average of the whole country (which, according to Mr. Hare's calculation, would be not far from the fact, if the existing electoral body were augmented by 200,000): why should not any candidate, who can obtain 2000 suffrages in the whole kingdom, be returned to Parliament? By the supposition, 2000 persons are sufficient to return a member; and there are 2000 who unanimously desire to have him for their representative. Their claim to be represented surely does not depend on their all residing in the same place. Since one member can be given to every 2000, the most just mode of arrangement and distribution must evidently be, to give the member to 2000 electors who have voted for him, rather than to 2000 some of whom have voted against him. We should then be assured that every member of the House has been wished for by 2000 of the electoral body; while in the other case, even if all the electors have voted, he may possibly have been wished for by no more than a thousand and one.

This arrangement provides for all the difficulties involved in representation of minorities. The smallest minority obtains an influence proportioned to its numbers; the largest obtains no more. The representation becomes, what under no other system it can be, really equal. Every member of parliament is the representative of an unanimous constituency. No one is represented, or rather misrepresented, by a member whom he has voted against. Every elector in the kingdom is represented by the candidate he most prefers, if as many persons in the whole extent of the country are found to agree with

him, as come up to the number entitled to a representative.

To enable the scheme to work in the manner intended, a second and subsidiary expedient is necessary. A candidate who enjoys a wide-spread popularity, if votes are received for him everywhere, will often be voted for by many times the number of persons forming the quota entitled to a member. If this multitude of votes were all counted for his return, the number of members required to constitute the House would not be obtained; while the many thousand votes given for these favourite characters, will have had no more influence than the simple 2000 given for the least popular candidate who is returned at all. To obviate this, Mr. Hare proposes that no more than 2000 votes be counted for any one; that whoever has obtained that number be declared duly elected, and the remainder of his votes be set free to be given to another. For this purpose (while no one's vote would be counted for more than one candidate) voters should make a practice of putting into their voting papers a second name, and as many other names as they like, in the order of their preference, of persons for whom they are willing to vote in case their vote is not needed for the one who stands first in their list. Suppose that 8000 electors give their first vote to the same candidate. Only 2000 of these (that being the supposed amount of the electoral quota) will be counted for his return. We will not discuss *which* 2000 should be chosen out of the 8000, as this is the solitary point we have yet discovered, in which Mr. Hare's arrangements appear to us susceptible of improvement. The 2000, on whatever principle selected,

form the constituency whom this candidate will represent. His name will then be cancelled in the remaining 6000 papers, each of which will be counted as a vote for the person next in order who is named in them, unless he also shall have been already returned by other votes—and so on. In this manner the 8000 electors who prefer A. B. will obtain from among the list of persons by whom they have declared their willingness to be represented, the full complement of four members due to them, A. B. being one; or will have exerted an amount of influence equal to the return of four members, in the election of some greater number.

Of this breadth, clearness, and simplicity are the principles of the plan. Indeed, if Mr. Hare had stopped here, the chief difficulty he would have had to encounter would have been the doubt whether a scheme so theoretically perfect could be brought into practical operation. But since he has taken the trouble to point out, even to the minutest detail, the mode in which the plan can be executed, and has drawn up in all legal form the statute necessary to give it effect, the danger now is lest the inevitable prominence of the mechanical arrangements should confuse the mind of a mere cursory reader, and enable the scheme to be represented as too complex and subtle to be workable. Such a notion would be extremely erroneous. Mr. Hare's draft of a Bill is ten times more simple and intelligible than the Reform Act, or almost any other Act of Parliament which deals with a great subject. Its details are worked out with infinite care and sagacity, and accompanied with an explanatory comment which must

satisfy any one not only of the possibility, but the facility of carrying them into effect. Seldom has it happened that a great political idea could be realized by such easy and simple machinery; and there is not a serious objection, nor a genuine difficulty, of however slight a nature, which will not, we think, be found to have been foreseen and met.

That these arrangements are just and reasonable, and afford a complete remedy for an evil for which none but very imperfect palliatives were supposed to be attainable, is obvious almost at first sight. But it was not till after mature reflection, and diligent study of Mr. Hare's admirable exposition, that we fully realized the greatness of the incidental benefits, not at first apparent, which would result from the substitution of personal instead of exclusively local representation.

In the first place, it would prodigiously improve the *personnel* of the national representation. At present, were they ever so desirous, a great majority of the most distinguished men in the country have little or no chance of being elected anywhere as members of the House of Commons. The admirers, and those who would be the supporters, of a person whose claims rest on acknowledged personal merit, are generally dispersed throughout the country, while there is no one place in which his influence would not be far outweighed by that of some local grandee, or *notabilité de clocher*, who neither has, nor deserves to have, the smallest influence anywhere else. If a man of talents and virtue could count as votes for his return all electors in any part of the kingdom who would like to be represented by him, every such person who is well known to the public would have a

probable chance; and under this encouragement nearly all of them, whose position and circumstances were compatible with Parliamentary duties, might be willing to offer themselves to the electors. Those voters who did not like either of the local candidates, or who believed that one whom they did not like was sure to prevail against them, would have all the available intellectual strength of the country from whom to select the recipient of their otherwise wasted vote. An assembly thus chosen would contain the *élite* of the nation.

For must it be supposed that only the minorities, or weaker parties in the localities, would give themselves a wider range of choice, to acquire, by combining with one another, their just share in the representation. The majorities also would be brought under inducements to make a more careful choice. There are few things more discreditable to the country than the mode in which the member for a borough, when not the mere creature of the local influences, is generally selected. What do the body of those who give him their suffrages usually know of him? Unless in the case of those who live among them, and are known to them privately, nothing at all, except that he is of the right political party; that he calls himself the Liberal or the Conservative candidate. But there are Liberal and Conservative candidates of all qualities; and what are the qualifications looked for by the attorney, the parliamentary agent, or the half-dozen local leaders, who bring down the candidate from London? What they seek for is a man with money, and willing to spend it—if of any social rank, so much the better—and who will make professions on some

subjects, and be silent on others, according to what they tell him is required by the local opinion. Whatever may be his worth, or want of worth, in other respects, the voters who are on the same side in politics vote for him *en masse* : whether he is to their taste or not, they cannot, by proposing another candidate, divide the party ; they must either bring him in, or lose their votes, and give a victory to the other side. Under Mr. Hare's plan things would be far otherwise. The candidate of the party which is strong enough to carry its nominee would still, no doubt, be generally selected by the local leaders ; when many persons are to be brought to act together, some must take the initiative. But the position and interest of the leaders would be much changed. They could no longer count upon bringing up the whole strength of the party, to return any professed Liberal or Conservative who would make it worth their while. An elector even of their own party, who was dissatisfied with the candidate offered him, would not then be obliged to vote for that candidate or remain unrepresented. He would have the option of contributing to give his country, or his party, the benefit of a better representative elsewhere ; and his leaders would be under the necessity of offering him some one whom he would consider creditable, to be secure of his vote. It is probable that a competition would spring up among constituencies for the most creditable candidates, and that the stronger party in every locality (local influences apart) would be anxious to bring forward the ablest and most distinguished men on their own side, that they might be sure of uniting the whole of their local strength, and have a chance of being

reinforced by stray votes from other parts of the country.

A member who had already served in Parliament with any distinction, would under this system be almost sure of his re-election. At present the first man in the house may be thrown out of Parliament precisely when most wanted, and may be kept out for several years, from no fault of his own, but because a change has taken place in the local balance of parties, or because he has voted against the prejudices or local interests of some influential portion of his constituents. Under Mr. Hare's system, if he has not deserved to be thrown out, he will be nearly certain to obtain votes from other places, sufficient, with his local strength, to make up the quota of 2000 (or whatever the number may be) necessary for his return to Parliament.

The considerations on which we have hitherto dwelt are independent of any possible changes in the composition of the electoral body. But the bearing of Mr. Hare's proposals on the question of extending the suffrage, is of the very greatest importance. Why is nearly the whole educated class united in uncompromising hostility to a purely democratic suffrage? Not so much because it would make the most numerous class, that of manual labourers, the *strongest* power; *that* many of the educated class would think only just. It is because it would make them the *sole* power; because in every constituency the votes of that class would swamp and politically annihilate all other members of the community taken together; would put them in the same position, as regards Parliament, in which the labouring classes are now, with-

out, the same imposing physical strength out of doors ; and would produce (or would be in danger of producing) a Legislature reflecting exclusively the opinions and preferences of the most ignorant class, with no member of any higher standard to compare and confront themselves with, except such as may have stripped themselves of their superiority by conforming to the prejudices of their supporters. But if the greater number could obtain their share of political power without silencing the smaller number ; if the educated and the propertied classes could still be represented, though by a minority, in the House ; there would not, in the minds of many of those classes, be the same insuperable objection to the political preponderance of the majority. Represented as that minority would be likely then to be, by the ablest heads and noblest hearts in the nation, their representatives would probably acquire considerable personal ascendancy over the other section of the House ; especially as the majorities would have been under the inducements already spoken of to get themselves represented by the most intelligent and morally recommendable persons they could find. The cause of the minority would be likely to be supported with such consummate skill, and such a weight of moral authority, as might prove a sufficient balance to the superiority of numbers on the other side, and enable the opinions of the higher and middle classes to prevail when they were right, even in an assembly of which the majority had been chosen by the poor. We have not the smallest wish that they should prevail when they were wrong, as no doubt they often would be. So much confidence, indeed, have we in the *moral* efficacy of

such a representation of minorities as Mr. Hare's scheme would give, that we should not despair of its rendering ultimately unnecessary the system, which in principle we have advocated, of plural voting, an expedient not included in Mr. Hare's plan, though perfectly compatible with it.

Meanwhile, however, and so long as the working classes are not admitted to the suffrage so indiscriminately as to outnumber the other electors, those classes have a most direct interest in the due representation of minorities, since in numerous cases they would themselves be in a position to benefit by it. There is great difficulty, under the present machinery, in measuring out influence to the working classes, so as to be just to them without being unjust to every one else. They are not represented even as a class, unless they are the majority of the constituency, and if they are, nobody else is represented. A strong sense of the importance of their obtaining, by whatever means, a certain number of members who actually represent *them*, has led an intelligent writer, Mr. Bagehot, to propose so violent a remedy as that of giving up the representation of the large towns to day-labourers, by establishing, in them, equal and universal suffrage, thereby disfranchising the higher and middle classes of those places, who comprise the majority of the most intellectual persons in the kingdom. All this Mr. Hare's plan would supersede. By admitting the working classes into the constituencies generally, in such numbers as to constitute a large minority therein, they would be enabled to return all their leaders, and a considerable number of other members, without swamping, or even outnumbering, the rest of the elec-

tors. They would be relieved from the mischievous alternative of all or none. They would have the exact amount of influence in the composition of Parliament which it was the intention of the Legislature to give them; whereas on the present system the effects of any extension of the suffrage would be so entirely uncertain, that to be sure of not giving them more than Parliament is willing to allow, it would be thought necessary to give much less than is fairly allowable.

Consider next the check which would be given to bribery and intimidation in the return of members to Parliament. Who, by bribery and intimidation, could get together 2000 electors from a hundred different parts of the country? Intimidation would have no means of acting over so large a surface; and bribery requires secrecy, and an organized machinery, which can only be brought into play within narrow local limits. Where would then be the advantage of bribing or coercing the 200 or 300 electors of a small borough? They could not of themselves make up the quota, and nobody could know what part of the country the remaining 1700 or 1800 suffrages might come from. In places so large as to afford the number of 2000 electors, bribery or intimidation would have the same chances as at present. But it is not in such places that, even now, these malpractices are successful. As regards bribery (Mr. Hare truly remarks), the chief cause of it is, that in a closely contested election certain votes are indispensable: the side which cannot secure those particular votes is sure to be defeated. But under Mr. Hare's plan no vote would be indispensable. A vote from any other part of the country would serve the purpose as well; and a can-

didate might be in a minority at the particular place, and yet be returned.

Those who demand equal electoral districts should strenuously support Mr. Hare's plan; for it fulfils, in a far preferable manner, their professed purposes. In his system all the constituencies are equal, and all unanimous. Disfranchisement becomes unnecessary, for every place is represented in the ratio, and no place in more than the ratio, due to its number of electors. The endless disputations, the artful manipulation and elaborate ponderation of interests, to endeavour to make sure (which can never really be done) that there shall always be places enough returning persons of certain descriptions, may all now be dispensed with. Every description of persons, every class, every so-called interest, will be sure of exactly the amount of representation it is entitled to. The system, moreover, is self-adjusting: there would not be need of an Act of Parliament once in every quarter of a century to readjust the representation. Every year the whole number of registered electors would be ascertained, and the quota necessary for returning a member declared: this done, the rest of the machinery would work of itself. There need be no grouping of boroughs; the boroughs and the electors inhabiting them would spontaneously group themselves. Nor need there be any limit to the number of places returning members. Mr. Hare would have any town or district, or any corporate body (an inn of court, for example), permitted to call itself a Parliamentary constituency, if it chose. This would excite, he thinks, a salutary emulation to elect the best men; and small bodies are the most likely to bring forward, from per-

sonal knowledge, men of merit not yet generally known. Of course, no constituency would have a member to itself, unless it contained the quota of electors. If it were a small body, the member who might be returned for it would be the representative of many other electors, and perhaps of other places or bodies ; but he would not be called the member for any place or body in which he had not the local majority. Nor need it be apprehended that by the greater play given to influences of a wider and more national character, local influences would be deprived of any weight which justly belongs to them. Local influences would be safe in the hands of the local majority, through whom alone those influences are effective at present. The power which would be called into action for national purposes, under motives of a national character, is a power now wasted and thrown away. The instrument by which larger and higher elements would be brought into the arena of public affairs, would be mainly the votes which are now virtual nonentities.

But in no way would the effects of this masterly contrivance be more unspeakably beneficial, than in raising the tone of the whole political morality of the country. A representative would be under nothing like the same temptation to gain or keep his seat by time-serving arts, and sacrifices of his convictions to the local or class prejudices and interests of any given set of electors. Unless the prejudice was universal in the nation, a spirited resistance would cause his name to be inscribed in the voting-papers of some electors in almost every place in which it was heard of. The elevating effect on the minds of the electors themselves would be still more valuable. Hardly any-

thing within the scope of possible attainment would do so much to make the voting for a member of Parliament be felt as a moral act, involving a real responsibility. Every elector's interest in his representative would be at the highest pitch. The member would be the elector's own representative, not chosen for him, but by him. Instead of having been chosen, perhaps *against* him, by electors of sentiments the remotest possible from his, he will not even have been accepted by him as a compromise; he is the man whom the elector has really preferred. No longer required to choose between two or some small number of candidates, much alike probably in all respects except the party banner they carry, and seldom having any strong public recommendation *but* that, to the suffrage of any one who votes for them; the elector would have the opportunity, if he chose, of tendering his vote for the ablest and best man in the Empire who is willing to serve. Is not this a situation to rouse a moral feeling in any one, who has sufficient conscience belonging to him to have any of it to bestow on the performance of a public duty? It is the seeming insignificance of men's individual acts that deadens their consciences respecting them. The self-deluding sophistry of indolence or indifference operates by 'What does it matter?' Place before any one a high object; show him that he can individually do something to promote that object; and if there is a spark of virtue in the man, it will be kindled into a glow. To the new feeling of duty would be added a pride in making a good choice—a desire to connect himself as a constituent with some one who is an honour to the nation—to be known to him and

to the world as one who has voluntarily sought him out to give him his vote. Mr. Hare, when he reaches this part of his subject, rises into a noble enthusiasm, which is irresistibly attractive when combined, as it is in him, with a sober and sagacious perception of the relation between means and ends, and a far-sighted circumspection in guarding his arrangements against all possibilities of miscarriage and abuse.

With this exalted sense of the moral responsibility of an elector, Mr. Hare is, as might be expected, an enemy to the ballot.* His plan requires voting papers, but he would have them signed by the elector, and delivered personally 'by every voter at his proper polling-place;' saving the case of necessary absence, when arrangements are suggested (p. 318) for transmitting his voting paper, with proper evidence of his identity, to a central office. There are serious objections to voting papers under the existing system, of which the strongest is the facilities and efficacy they would give to undue influences; since the act of subservience would be done in the privacy of home, where the eye of the public would be absent, but the hand of the briber, or the *vultus instantis tyranni*, might and would be present. The system of personal representation does so much in other respects to weaken the inducements to the exercise of the undue influences, that it can afford to leave them such advantages as voting papers would give. But the evil is a real, and, in any system but Mr. Hare's, a conclusive objection.

On many other points in the theory and practice of

* Pp. 168 et seq.

representation Mr. Hare's opinions are valuable, but not in the same degree original. On some minor questions he has not, perhaps, bestowed the same maturity of meditation as on the one which is peculiarly his own. He would remove all disqualifications for membership (pp. 136, *et seq.*). Neither clergymen, nor judicial officers, nor persons in official employment, should in his opinion be excluded from Parliament. If attendance in the House is inconsistent with a functionary's official duties, it should be left (he thinks) to the functionary's superiors to remove him. In some of these cases Mr. Hare may be in the right, but he takes no notice of the reasons which are commonly considered to justify the exclusion: in the case of clergymen and of judges, the importance of their not being thought to be political partisans; in that of subordinates in Government offices, a more cogent reason. These officers are kept out of Parliament, that their appointments may not be the wages of Parliamentary support. Not so much for fear of corrupting Parliament, though that also deserves to be considered; but as the sole means of keeping up a high standard of qualifications in the officers themselves. The whole efficiency of the public service depends on the personal qualities of a few individuals, whom the public never see, and hardly ever hear of. Their places, if allowed to be held by members of Parliament, would often be given to political tools, who would not then have capable prompters under them on whom to rely; and by the time they had learnt their business, if they ever did learn it, they would be changed, to give their places to others, as officials who can sit in Parliament now are, at every change of ministry.

We heartily join in Mr. Hare's condemnation of the proposal for payment of members of Parliament. 'The constant meddling of a body of men, paid for making laws, and acting under the notion that they are bound to do something for their salaries, would in this country be intolerable' (p. 122). Moreover, as Mr. Lorimer remarks (p. 169), by creating a pecuniary 'inducement to persons of the lowest class to devote themselves to public affairs, the calling of the demagogue would be formally inaugurated.' Nothing is more to be deprecated than making it the private interest of a number of active persons to urge the form of government in the direction of its natural perversion. The indications which either a multitude or an individual can give, when merely left to their own weaknesses, afford but a faint idea of what those weaknesses would become when played upon by a thousand flatterers. If there were six hundred and fifty-eight places, of certain, however moderate, emolument, to be gained by persuading the multitude that ignorance is as good as knowledge, and better, it is terrible odds that they would believe and act upon the lesson. The objection, however, to the payment of members, as Mr. Hare remarks, is chiefly applicable to payment from the public purse. If a person who cannot give his time to Parliament without losing his means of subsistence, is thought so highly qualified for it by his supporters as to be provided by them with the necessary income at their own expense,—this sort of payment of a member of Parliament may be equally useful and honourable; and of this resource it is open even to the working classes to avail themselves. They are perfectly capa-

ble of supporting their Parliamentary representatives, as they already do the managers of their trade societies.

Though Mr. Hare is strongly averse to this 'point of the Charter,' he would relieve candidates from the heavy burthen of election expenses, except a payment of fifty pounds, which he would require from each on declaring himself a candidate, 'to prevent any trifling or idle experiment, whereby the lists of candidates might be encumbered with the names of persons who can have no rational expectation of being usefully placed in nomination.'

This preliminary payment should

'Exonerate the candidate from all liability in respect of any further expenses, except such as he may voluntarily incur. Such voluntary expenses will of course, as now, vary according to the peculiar circumstances of every candidate. They will probably be in the inverse ratio of his political eminence and distinction. Men of high character and reputation, and those whose political conduct and discretion have been tested and proved by experience, would stand in need of no more than that announcement of their names which the gazetted list would publish. A man of less distinction might require something more; possibly the charges of a public meeting, and of an advertisement or printed address, declaring his general views on political questions. This, perhaps, would be less necessary if the candidate were a person of any mark in literature or science, and had in his previous career become known to the public. Those who would probably be compelled to spend most, would be the persons who have the least to recommend them besides their money.'—p. 126.

With regard to the suffrage, Mr. Hare does not deliver a decided opinion as to the most proper test of

capacity, but lays down the broad principle, that it should be

‘One which will exclude no man of ordinary industry and skill in his calling, and ordinary prudence and self-denial in his conduct. It cannot be necessary that the suffrage should be given to every youth as soon as he is out of his apprenticeship: it is not necessary that it should be given without regard to property, or to position, as the head of a family, or to participation in the burdens of citizenship, at least to one in early manhood, whilst the character is in process of formation, and the pleasures and anticipations of life exercise a strong influence on his conduct, and divert him from more serious thought on subjects not directly affecting his own career. . . . The qualification, however, should be accessible to every man when he acquires a home, and settles to the line of occupation for which the preparatory course of his earlier years has fitted him.’—p. 309.

This general doctrine is sufficiently liberal to satisfy any one; but when Mr. Hare (p. 313) considers the present 10% qualification in the large towns, and one varying from that to 6% in the smaller towns and in the counties, to be a standard ‘so low that it is within the reach of every well-conducted man who is not a victim of some extraordinary misfortune, forming an exception to the general lot,’ we fear statistics will not bear him out. An educational test he deems inapplicable (p. 310), because ‘it would be next to impossible to apply’ such a test ‘to every individual of a multitude’ (not true of the simple test of writing and arithmetic, which might with ease be applied to every elector at the registry); because ‘it may exclude men of much practical knowledge and good sense’ (we greatly question the knowledge and good sense, as applicable to politics, of any one who has not the

power and habit of reading); and finally, because 'it would operate severely on those who were more advanced in life, and to whom elementary tests are less suitable.' The rights of *existing* electors should certainly be reserved; but in the case of any others, the supposed hardship, being merely that of not being entrusted with duties they are not fit for, is no subject for complaint.

Mr. Hare passes an unqualified and most just condemnation on the exclusion of women from the suffrage:—

'In all cases where a woman is *sui juris*, occupying a house or tenement, or possessed of a freehold, or is otherwise in a position which, in the case of a male, would amount to a qualification, there is no sound reason for excluding her from the parliamentary franchise. The exclusion is probably a remnant of the feudal law, and is not in harmony with the other civil institutions of the country. There would be great propriety in celebrating a reign which has been productive of so much moral benefit, by the abolition of an anomaly which is so entirely without any justifiable foundation.'—p. 320.

Such is this remarkable book: of the contents of which we have been compelled to leave a great portion unnoticed, including the simple arrangements by which the system of voting is adapted to the case of single elections, and of municipalities. In our brief exposition we have given a much more adequate idea of Mr. Hare's specific proposals, than of the instructive and impressive discussions by which he introduces them. Yet if the book made no practical suggestions whatever, and had no value but that of the principles it enforces, it would still deserve a high rank among

manuals of political thought. We trust it will be widely read, and we are convinced that, by competent thinkers, the system it embodies will be recognised as alone just in principle, as one of the greatest of all practical improvements, and as the most efficient possible safeguard of further Parliamentary Reform.

BAIN'S PSYCHOLOGY.

THE sceptre of Psychology has decidedly returned to this island. The scientific study of mind, which for two generations, in many other respects distinguished for intellectual activity, had, while brilliantly cultivated elsewhere, been neglected by our countrymen, is now nowhere prosecuted with so much vigour and success as in Great Britain. Nor are the achievements of our thinkers in this obstinately-contested portion of the field of thought, merely one-sided and sectarian triumphs. The two conflicting schools, or modes of thought, which have divided metaphysicians from the very beginning of speculation—the *à posteriori* and *à priori* schools, or, as they are popularly rather than accurately designated, the Aristotelian and the Platonic—are both flourishing in this country; and we venture to affirm that the best extant examples of both have been produced within a recent period by Englishmen, or (it should, perhaps, rather be said) by Scotchmen.

Of these two varieties of psychological speculation, the *à posteriori* mode, or that which resolves the whole contents of the mind into experience, is the one which belongs most emphatically to Great Britain, as might be expected from the country which gave birth to

* *Edinburgh Review*, October 1859.—1. 'The Senses and the Intellect.' By Alexander Bain, A.M. 1855.

2. 'The Emotions and the Will.' By the same Author. 1859.

Bacon. 'The foundation of the *à posteriori* psychology was laid by Hobbes (to be followed by the masterly developments of Locke and Hartley), at the very time when Descartes, on the other side of the Channel, was creating the rival philosophical system; for the French, who are so often ill-naturedly charged with having invented nothing, at least invented German philosophy. But after having initiated this mode of metaphysical investigation, they left it to the systematic German thinkers to be followed up; themselves descending to the rank of disciples and commentators, first on Locke, and more recently on Kant and Schelling. In England, the philosophy of Locke reigned supreme, until a Scotchman, Hume, while making some capital improvements in its theory, carried out one line of its apparent consequences to the extreme which always provokes a reaction; and of this reaction, another Scotchman, Reid, was the originator, and, with his eminent pupil, Stewart, also a Scotchman, introduced as much of the *à priori* philosophy as could in any way be made reconcilable with Baconian principles. These were succeeded by Dr. Thomas Brown (still a Scotchman), who drew largely and not unskilfully from both sources, though, for want of a patience and perseverance on a level with his great powers, he failed to effect a synthesis, and only produced an eclecticism. Meanwhile, the more elaborate form of the *à priori* philosophy which the whole speculative energy of Germany had been employed in building up, and which the French had expounded with all the lucidity which it admitted of, was in time studied also among us; and, according to what now seems to be the opinion of the most

*competent judges, this philosophy has found in a Scotchman, Sir William Hamilton, its best and profoundest representative. But the great European philosophical reaction was to have its counter-reaction, which has now reached a great height in Germany itself, and is taking place here also; and of this, too, in our island, the principal organs have been Scotchmen. Mr. James Mill, in his 'Analysis of the Human Mind,' followed up the deepest vein of the Lockian philosophy, that which was opened by Hartley, to still greater depths: and now, in the work at the head of this article (we say work, not works, for the second volume, though bearing a different title, is in every sense a continuation of the first), a new aspirant to philosophical eminence, Mr. Alexander Bain, has stepped beyond all his predecessors, and has produced an exposition of the mind, of the school of Locke and Hartley, equally remarkable in what it has successfully done, and in what it has wisely refrained from—an exposition which deserves to take rank as the foremost of its class, and as marking the most advanced point which the *à posteriori* psychology has reached.**

We have no intention to profess ourselves partisans

* To these writers may be added another, of kindred merit, Mr. Herbert Spencer; of whose able and various writings, his 'Principles of Psychology' is one of the ablest. Though the dissertation prefixed to that work is the very essence of the *à priori* philosophy, the work itself is wholly of the opposite school: but Mr. Spencer, though possessing great analytic power, is a less sober thinker than Mr. Bain, and, in the more original portion of his speculations, is likely to obtain a much less unqualified adhesion from the best minds trained in the same general mode of thought. We have therefore chosen Mr. Bain's work rather than Mr. Spencer's as the subject of this article, though the latter deserves, and would well repay, a complete critical examination.

of either of these schools of philosophy. Both have done great things for mankind. No one whose studies have not extended to both, can be considered in any way competent to deal with the great questions of philosophy in their present state. And though one of the two must be fundamentally the superior, there can be no doubt that, whichever this is, it has been greatly benefited by the searching criticisms which it has sustained from the other. But as the Lockian, or *à posteriori*, psychology has for some time been under a cloud throughout Europe, from which it is now decidedly emerging, and giving signs that it is likely soon again to have its turn of ascendancy, there may be use in making some observations on the general pretensions of this philosophy, its method, and the evidence on which it relies, and in helping to make generally known a work which is the most careful, the most complete, and the most genuinely scientific analytical exposition of the human mind which the *à posteriori* psychology has up to this time produced.

In these remarks no complete comparison between the two modes of philosophizing is to be looked for. Psychology, with which we are here concerned, is but the first stage in this great controversy—the arena of the initial conflict. The account which the two schools respectively render of the human mind is the foundation of their doctrines; but the crowning peculiarity of each resides in the superstructure. That the constitution of the mind is the key to the constitution of external nature—that the laws of the human intellect have a necessary correspondence with the objective laws of the universe, such that these may be

inferred from those—is the grand doctrine which the one school affirms and the other denies; and the difference between this doctrine and its negation, is the great practical distinction between the two philosophies. But this question is beyond the compass of psychology. The *à priori* philosophers, when they inculcate this doctrine, do so not as psychologists, but as ontologists; and some distinguished thinkers, who, so far as psychology is concerned, belong essentially to the *à priori* school, have not thought it necessary to enter, except to a very limited extent, on the ground of ontology. Among these may be counted Reid and Stewart, as well as other more recent names of eminence. Indeed, the grand pretension of the *à priori* school in its extreme development, that of arriving at a knowledge of the Absolute, has received its most elaborate and crushing refutation from two philosophers of that same school—Sir William Hamilton and Mr. Ferrier: the *à posteriori* metaphysicians having in general thought that the essential relativity of our knowledge could dispense with direct proof, and might be left to rest on the general evidence of their analysis of the mental phenomena. Yet the philosophers whom we have named are not the less, up to a certain point, ontologists. They all hold, that some knowledge, more or less, of objective existences and their laws, is attainable by man, and that it is obtained by way of inference from the constitution of the human mind. Reid, for example, is decidedly of opinion that Matter—not the set of phenomena so called, but the actual Thing, of which these are effects and manifestations—is cognizable by us as a reality in the universe; and that extension,

solidity, and 'other fundamental attributes of visible and tangible Nature, known to us by experience, are really and unequivocally qualities inherent in this actual thing; the evidence of which doctrine is, that we have, ineradicable from our minds, conceptions or perceptions of these various objects of thought, of which conceptions or perceptions the existence is inexplicable, save from the reality of the things which they represent. Thus far Reid: who is therefore in principle as much an ontologist as Hegel, though he does not lay claim to as minute a knowledge of the constitution of 'Things in themselves.' On the legitimacy of this mode of reasoning, the other school is at issue with them. The possibility of ontology is one of the points in dispute between the two. It is one into which we do not here enter.

On the ground of simple psychology, the distinction between the two philosophies consists in the different theories they give of the more complex phenomena of the human mind. When we call the one philosophy *à priori*, the other *à posteriori*, or of experience, the terms must not be misunderstood. It is not meant that experience belongs only to one, and is appealed to as evidence by one and not by the other. Both depend on experience for their materials. Both require as the basis of their systems, that the actual facts of the human mind should be ascertained by observation. It is true they differ to some extent in their notion of facts; the *à priori* philosophers cataloguing some things as facts, which the others contend are inferences. The fundamental difference relates, however, not to the facts themselves, but to their origin. Speaking briefly and loosely, we may say

that the one theory considers the more complex phenomena of the mind to be products of experience, the other believes them to be original. In more precise language, the *à priori* thinkers hold, that in every act of thought, down to the most elementary, there is an ingredient which is not given to the mind, but contributed by the mind in virtue of its inherent powers. The simplest phenomenon of all, an external sensation, requires, according to them, a mental element to become a perception, and be thus converted from a passive and merely fugitive state of our own being, into the recognition of a durable object external to the mind. The notions of Extension, Solidity, Number, Magnitude, Force, though it is through our senses that we acquire them, are not copies of any impressions on our senses, but creations of the mind's own laws set in action by our sensations; and the properties of these ideal creations are not proved by experience, but deduced *à priori* from the ideas themselves, constituting the demonstrative sciences of arithmetic, algebra, geometry, statics, and dynamics. Experience, instead of being the source and prototype of our ideas, is itself a product of the mind's own forces working on the impressions we receive from without, and has always a mental as well as an external element. Experience is only rendered possible by those mental laws which it is vainly invoked to explain and account for. *A fortiori* do all our ideas of supersensual things, and all our moral and spiritual judgments and perceptions, proceed from our inherent mental constitution. Experience is the occasion, not the prototype, of our mental ideas, and is neither the source nor the evidence of our know-

ledge, but its test; for as what we call experience is the outward manifestation of laws which are not to be found in experience, but which may be known *à priori*, and as the effects cannot be in contradiction to the cause, it is a necessary condition of our knowledge that experience shall not conflict with it.

We are now touching the real point of separation between the *à priori* and the *à posteriori* psychologists. These last also for the most part acknowledge the existence of a mental element in our ideas. They admit that the notions of Extension, Solidity, Time, Space, Duty, Virtue, are not exact copies of any impressions on our senses. They grant them to be ideas constructed by the mind itself, the materials alone being supplied to it. But they do not think that this ideal construction takes place by peculiar and inscrutable laws of the mind, of which no further account can be given. They think that a further account *can* be given. They admit the mental element as a fact, but not as an ultimate fact. They think it may be resolved into simpler laws and more general facts; that the process by which the mind constructs these great ideas may be traced, and shown to be but a more *récondite* case of the operation of well-known and familiar principles.

From this opinion, which ascribes an ascertainable *genesis* to that part of the more complex mental phenomena which derives its origin from the mind itself, instead of regarding it, with the *à priori* psychologists, as something ultimate and inscrutable, there arises necessarily a wide difference between the two as to what are called by the *à priori* philosophers *necessary* elements of thought. M. Cousin, one of the

ablest, and (Fichte excepted) quite the most eloquent teacher of the *à priori* school, deems it the radical error of Locke and his followers, to have raised the question of the *origin* of our ideas at the opening of the inquiry, without first making a complete descriptive survey of the ideas themselves; which if they had done, he thinks they must have recognised, as involved in all our thoughts, certain necessary assumptions, inconsistent with the origin which Locke ascribes to them. The difference, however, between the two theories, is not as to the fact that these assumptions are made, but as to their being *necessary* assumptions. The Lockians think they are able to show how and why the mind is led to make these assumptions. They believe that it is not obliged by any necessity of its nature to make them. They think that the cause of our making the assumptions lies in the conditions of our experience; that those conditions are often accidental and modifiable, and might be so modified that we should no longer be led to make these assumptions; and even when the assumptions depend upon conditions of our experience which do not, so far as our faculties can judge, admit of actual modification, yet if by an exercise of thought we imagine them modified, the supposed necessity of the assumptions will disappear. For example: the transcendentalist examines our ideas of Space and Time, and finds that each of them contains inseparably within itself the idea of Infinity. We can of course have no experimental evidence of infinity: all our experiences, and therefore, in his opinion, all our ideas derived from experience, are of things finite. Yet to conceive Time or Space otherwise than as things infinite

is impossible: The infinity of Space and Time he therefore sets down as a necessary assumption: and if his philosophy leads him (which Kant's did not) to regard Space and Time as having any existence at all external to the mind, he proceeds, as an ontologist, to infer from the necessity of the assumption, the infinity of the things themselves. The *à posteriori* psychologist, on his part, also perceives that we cannot think of Space or of Time otherwise than as infinite; but he does not consider this as an ultimate fact, or as requiring any peculiar law of mind or properties of the objects for its explanation. He sees in it an ordinary manifestation of one of the laws of the association of ideas,—the law, that the idea of a thing irresistibly suggests the idea of any other thing which has been often experienced in close conjunction with it, and not otherwise. As we have never had experience of any point of space without other points beyond it, nor of any point of time without others following it, the law of inseparable association makes it impossible for us to think of any point of space or time, however distant, without having the idea irresistibly realized in imagination, of other points still more remote. And thus the supposed original and inherent property of these two ideas is completely explained and accounted for by the law of association; and we are enabled to see, that if Space or Time were really susceptible of termination, we should be just as unable as we now are to conceive the idea. This being once seen, although the mental element, Infinity, still remains attached to the ideas, we are no longer prompted to make a 'necessary assumption' of a corresponding objective fact. We are enabled to acknowledge our ignorance,

and our inability to judge whether the course of Things, in this respect, corresponds with our necessities of Thought. Space or Time may, for aught we know, be inherently terminable, though in our present condition we are totally incapable of conceiving a termination to them. Could we arrive at the end of space, we should, no doubt, be apprised of it by some new and strange impression upon our senses, of which it is not at present in our power to form the faintest idea. But under all other circumstances the association is indissoluble, since every moment's experience is constantly renewing it.

In this example, which is the more significant as the case is generally considered one of the main strongholds of the *à priori* school, the two leading doctrines of the most advanced *à posteriori* psychology are very clearly brought to view: first, that the more recondite phenomena of the mind are formed out of the more simple and elementary; and, secondly, that the mental law, by means of which this formation takes place, is the Law of Association. Though not the first who pointed out this law, Locke was the author of its first great application to the explanation of the mental phenomena, by his doctrine of Complex Ideas. The idea of an orange, for example, is compounded of certain simple ideas of colour, of visible and tangible shape, of taste, of smell, of a certain consistence, weight, internal structure, and so forth: yet our idea of an orange is to our feelings and conceptions one single idea, not a plurality of ideas; thus showing that when any number of sensations have been often experienced simultaneously or in very rapid succession, the ideas of those sensations not only raise

up one another, but do this so certainly and instantaneously as to run together, and seem melted into one. In this example, however, the original elements may still, by an ordinary effort of consciousness, be distinguished in the compound. It was reserved for Hartley to show that mental phenomena, joined together by association, may form a still more intimate, and as it were chemical union—may merge into a compound, in which the separate elements are no more distinguishable as such, than hydrogen and oxygen in water; the compound having all the appearance of a phenomenon *sui generis*, as simple and elementary as the ingredients, and with properties different from any of them: a truth which, once ascertained, evidently opens a new and wider range of possibilities for the generation of mental phenomena by means of association.

The most complete and scientific form of the *à posteriori* psychology, is that which considers the law of association as the governing principle, by means of which the more complex and recondite mental phenomena shape themselves, or are shaped, out of the simpler mental elements. The great problem of this form of psychology is to ascertain, not how far this law extends, for it extends to everything; ideas of sensation, intellectual ideas, emotions, desires, volitions, any or all of these may become connected by association under the two laws of Contiguity and Resemblance, and when so connected, acquire the power of calling up one another. Not, therefore, how far the law extends, is the problem, but how much of the apparent variety of the mental phenomena it is capable of explaining; what ultimate elements of the

mind remain, when all are subtracted, the formation of which can be in this way accounted for; and how, out of those elements, and the law, or rather laws, of association, the remainder of the mental phenomena are built up. On this part of the subject there are, as might be expected, many differences of doctrine; and the theory, like all theories of an uncompleted science, is in a state of progressive improvement.

This mode of interpreting the phenomena of the mind is not unfrequently stigmatised as materialistic; how far justly, may be seen when it is remembered that the Idealism of Berkeley is one of the developments of this theory. With materialism in the obnoxious sense, this view of the mind has no necessary connexion, though doubtless not so directly exclusive of it as is the rival theory. But if it be materialism to endeavour to ascertain the material conditions of our mental operations, all theories of the mind which have any pretension to comprehensiveness must be materialistic. Whether organisation alone could produce life and thought, we probably shall never certainly know, unless we could repeat Frankenstein's experiment; but that our mental operations have material conditions, can be denied by no one who acknowledges, what all now admit, that the mind employs the brain as its material organ. And this being granted, there is nothing *more* materialistic in endeavouring, so far as our means of physiological explanation allow, to trace out the detailed connexions between mental manifestations and cerebral or nervous states. Unhappily, the knowledge hitherto obtainable on this subject has been very limited in amount; but when we consider, for example, the case of all our

stronger emotions, and the disturbance of almost every part of our physical frame, which is occasioned in these cases by a mere mental idea, no rational person can doubt the closeness of the connexion between the functions of the nervous system and the phenomena of mind, nor can think any exposition of the mind satisfactory, into which that connexion does not enter as a prominent feature.

It is undoubtedly true that the Association Psychology does represent many of the higher mental states as in a certain sense the outgrowth and offspring of the lower. But in other cases, philosophers have not considered as degrading, the formation of noble products out of base materials, and have rather been disposed to celebrate this, as one of the exemplifications of wisdom and contrivance in the arrangements of Nature. Without undertaking to determine what portion of truth lies in this philosophy, and how far any of the nobler phenomena of mind are really constructed from the materials of our animal nature, it is certain that, to whatever extent this is the fact, it ought to be known and recognised. If these nobler parts of our nature are not self-sown and original, but are built or build themselves up, out of no matter what materials, it must be highly important to the work of the education and improvement of human character, to understand as much as possible of the process by which the materials are put together. These composite parts of our constitution (granting them to be such) are not for that reason factitious and unnatural. The products are not less a part of human nature than their component elements. Water is as truly one of the substances in external

nature, as hydrogen or oxygen ; and to suppose it non-existent would imply as great a change in all we know of the order of things in which we live. It is only to a very vulgar type of mind, that a grand or beautiful object loses its charm when it loses some of its mystery, through the unveiling of a part of the process by which it is created in the secret recesses of Nature.

The aim, then, which the Association Psychology proposes to itself, is one which both schools of mental philosophy should equally desire to see vigorously prosecuted. It is important, even from the point of view of transcendentalists, that all which can be done by this system for the explanation of the mental phenomena should be brought to light. For, in the first place, all admit that there is much which can be so explained. The law of association, every one allows, is real, and a large number of mental facts are explicable thereby. But further, the sole ground upon which the transcendental mode of speculation in psychology can possibly stand, is the failure of the other. The evidence of the *à priori* theory must always be negative. There can be no positive proof that oxygen, or any other body, is a simple substance. The sole proof that can be given is, that no one has hitherto succeeded in decomposing it. And nothing can positively prove that any particular one of the constituents of the mind is ultimate. We can only presume it to be such, from the ill success of every attempt to resolve it into simpler elements. If, indeed, the phenomena alleged to be complex manifested themselves chronologically at an earlier period than those from which they are said to be com-

pounded, this would be a complete disproof, at least of *that* origin. But the fact is not so: on the contrary, the higher mental phenomena are so well known to unfold themselves after the lower, that sensational experience, which is so violently repudiated as their origin and source, is, from the necessity of the case, admitted as the occasion which calls into action the mental laws that develop them. The first question, therefore, in analytical psychology ought to be, how much of the furniture of the mind will experience and association account for? The residuum which cannot be so explained, must be provisionally set down as ultimate, and handed over to observation to determine its conditions and laws.

On the other hand, it is necessary to be *exigant* as to the evidence for the validity of the analysis by which a mental phenomenon is resolved into association. Much has been tendered on this subject, even by powerful thinkers, as proved truth, to which it is impossible soberly to assign any higher value than that of philosophical conjecture. The rules of inductive logic must be duly applied to the case. When the elements can be recognised by our consciousness as distinguishably existing in the compound, there is no difficulty. When they are not thus distinguishable, the gradual growth and building up of the complex phenomenon may be a fact amenable to direct observation. In the case of the higher intellectual and moral phenomena of our being, the observation may be practised on ourselves. In the case of those of our acquisitions which are made too early to be remembered, the observation may be of children, of the young of other animals, or of persons

who are, or were during a part of life, shut out from some of the ordinary sources of experience; persons like Caspar Hauser, brought up in confinement and solitude; persons destitute of sight or hearing; especially those born blind and suddenly restored to sight. This last is a precious source of information, which unfortunately has been very scantily made use of. In the case of children and young animals, our power is very limited of ascertaining what actually passes within them. But in so far as we are able to interpret their outward manifestations, we have some means of ascertaining what, in their minds, precedes what. We can often, by sufficiently close observation, perceive a mental faculty forming itself by gradual growth; and in some cases we can, to a certain extent, ascertain the conditions of its formation, which are often such as to bring it within the known laws of association. Though the product may, to our consciousness, appear *sui generis*, not identical in its nature with any or with all of the elements, yet if the mode of its production be invariably found to consist in bringing certain sensations or ideas to pass through the mind simultaneously, or in immediate succession, and if the effect is produced *pari passu* with the number of repetitions of this conjunction, we may conclude with considerable assurance that the apparently simple phenomenon is a compound of those ideas, united by association. For we know that it is the effect of repetition to knit all conjunctions of ideas closer and closer, until they so coalesce as to leave no trace in our consciousness of their separate existence. One of the most familiar cases of this remarkable law, is the case of what are called the

acquired perceptions of sight. It is admitted by nearly all psychologists, that when we appear to see distance and magnitude by the eye, we do not really see them, but see only certain signs, from which, by a process of reasoning, rendered so rapid by practice as to have become entirely unconscious, we infer the distance or magnitude which we fancy we see. No alleged transformation of mental phenomena by association can be more complete, or more extraordinary, than this. Yet it is one of the few results of psychological analysis which can be brought to the test of a complete Baconian induction: for the case admits of an ample range of experiments; and the result of them is, that wherever the signs are the same, our impressions of distance and magnitude are the same, and wherever the signs are different, our impressions are different, although the real distance and magnitude of the object looked at remain all the while exactly as they were. Hardly any theory of the formation of a mental phenomenon by association can deserve, after this, to be rejected *in limine*, for inherent incredibility, or inconsistency with our consciousness. There is hardly any mental phenomenon (except those which association itself presupposes) of which we can say that, from its own nature, it could not possibly have been produced by association. But, from the intrinsic possibility of its having been so produced, to its actually being so, is a wide step; and unless the case admits of actual experiment, or unless there be something in the observed development of the individual mind to bear out the conjecture, it can be ranked only as an hypothesis, of no present value except to suggest points for further verification.

There is, however, a large class of cases—and these are among the most important of all—in which the explanation by way of association is not attended with any of these difficulties and uncertainties. The mental fact which is the subject of dispute may be, not any one mental phenomenon, but a conjunction between phenomena. The thing to be explained often is no other than the fact that some one idea is suggested by, and apparently involved in, another; and the point to be decided is, whether this happens necessarily, and by an inherent law; as infinity is said to be inherently involved in our ideas of time and space, and externality in our ideas of tangible objects. In such cases the evidence of origin in association may often be complete; and it is in such that the greatest triumphs of the Association Psychology have been achieved. A conjunction, however close and apparently indissoluble, between two ideas, is not only an effect which association is able to produce, but one which it is certain to produce, if the necessary conditions are sufficiently often repeated without the intervention of any fact tending to produce a counter-association. It is, therefore, in these cases, sufficient if we can show, that there has really existed the invariable conjunction of sensible phenomena in experience, which is necessary for the formation of an inseparable association between the corresponding ideas. If, as in the case of Time and Space, already examined, this can be shown to be the fact, then that conjunction of sensible experiences is the real cause: formation by association is the true theory of the phenomenon, and it is in the highest degree unphilosophical to demand any other.

These few observations on the nature and scope of the Association Psychology generally, were necessary for fixing the position of Mr. Bain's treatise in mental science. Belonging essentially to the association school, he has not only, with great clearness and copiousness, illustrated, popularised, and enforced by fresh arguments, all which that school had already done towards the explanation of the phenomena of mind, but he has added so largely to it, that those who have the highest appreciation and the warmest admiration of his predecessors, are likely to be the most struck with the great advance which this treatise constitutes over what those predecessors had done, and the improved position in which it places their psychological theory. Mr. Bain possesses, indeed, an union of qualifications peculiarly fitting him for what, in the language of Dr. Brown, may be called the physical investigation of mind. With analytic powers comparable to those of his most distinguished predecessors, he combines a range of appropriate knowledge still wider than theirs; having made a more accurate study than perhaps any previous psychologist, of the whole round of the physical sciences, on which the mental depend both for their methods, and for the necessary material substratum of their theories: while those sciences, also, are themselves in a far higher state of advancement than in any former age. This is especially true of the science most nearly allied, both in subject and method, with psychological investigations, the science of Physiology: which Hartley, Brown, and Mill had unquestionably studied, and knew perhaps as well as it was known by any one at the time when they studied it, but in a superficial

manner compared with Mr. Bain ; the science having in the meanwhile assumed almost a new aspect, from the important discoveries which had been made in all its branches, and especially in the functions of the nervous system, since even the latest of those authors wrote.

Mr. Bain commences his work with a full and luminous exposition of what is known of the structure and functions of the nervous system. What may be called the outward action of the nervous system is twofold,—sensation and muscular motion ; and one of the great physiological discoveries of the present age is, that these two functions are performed by means of two distinct sets of nerves, in close juxtaposition ; one of which, if separately severed or paralysed, puts an end to sensation in the part of the body which it supplies, but leaves the power of motion unimpaired ; the other destroys the power of motion, but does not affect sensation. That the central organ of the nervous system, the brain, must in some way or other co-operate in all sensation, and in all muscular motion except that which is actually automatic and mechanical, is also certain ; for if the nervous continuity between any part of the body and the brain is interrupted, either by the division of the nerve, or by pressure on any intermediate portion, unfitting it to perform its functions, sensation and voluntary motion in that part cease to exist. That the memory or thought of a sensation formerly experienced has also for its necessary condition a state of the brain, and of the same nerves which transmit the sensation itself, does not admit of the same direct proof by experiment ; but is, at least, a highly pro-

bable hypothesis. When we consider that in dreams, hallucinations, and some highly excited states of the nervous system, the idea or remembrance of a sensation is actually mistaken for the sensation itself; and also that the idea, when vividly excited, not unfrequently produces the same effects on the whole bodily frame which the sensation would produce, it is hardly possible, in the face of all this resemblance, to suppose any fundamentally different machinery for their production, or any real difference in their physical conditions, except one of degree. The instrumentality of the brain in thought is a more mysterious subject; the evidence is less direct, and its interpretation has given rise to some of the keenest controversies of our era, controversies yet far from being conclusively decided. But the general connexion is attested by many indisputable pathological facts: such as the effect of cerebral inflammation in producing delirium; the relation between idiocy and cerebral malformation or disease; and is confirmed by the entire range of comparative anatomy, which shows the intellectual faculties of the various species of animals bearing, if not an exact ratio, yet a very unequivocal relation, to the development in proportional size, and complexity of structure, of the cerebral hemispheres.

However imperfect our knowledge may still be in regard to this part of the functions of the nervous system, it is certain that all our sensations depend upon the transmission, of some sort of nervous influence *inward*, from the senses to the brain, and that our voluntary motions take place by the transmission of some sort of nervous influence *outward*, from the

brain to the muscular system; these two nervous operations being, as already observed, the functions of two distinct systems of nerves, called respectively the nerves of sensation and those of motion. It is now necessary to notice another physiological truth, brought to light only within the present generation, viz. the different functions of the two kinds of matter of which the nervous system is compounded. The nerves consist partly of grey vesicular or cell-like matter, partly of white fibrous matter. Physiologists are now of opinion that the function of the grey matter is that of originating power, while the white fibrous matter is simply a conductor, which conveys the influence to and from the brain, and between one part of the brain and another. With this physiological discovery is connected the first capital improvement which Mr. Bain has made in the Association Psychology as left by his predecessors; the nature of which we now proceed to indicate.

Those who have studied the writings of the Association Psychologists, must often have been unfavourably impressed by the almost total absence, in their analytical expositions, of the recognition of any active element, or spontaneity, in the mind itself. Sensation, and the memory of sensation, are passive phenomena; the mind, in them, does not act, but is acted upon; it is a mere recipient of impressions; and though adhesion by association may enable one of these passive impressions to recall another, yet when recalled, it is but passive still. A theory of association which stops here, seems adequate to account for our dreams, our reveries, our casual thoughts, and states of mere contemplation, but for no other part

of our nature. The mind, however, is active as well as passive; and the apparent insufficiency of the theory to account for the mind's activity, is probably the circumstance which has oftenest operated to alienate from the Association Psychology any of those who had really studied it. Coleridge, who was one of these, and in the early part of his life a decided Hartleian, has left on record, in his '*Biographia Literaria*,' that such was the fact in his own case. Yet, no Hartleian could overlook the necessity, incumbent on any theory of the mind, of accounting for our voluntary powers. Activity cannot possibly be generated from passive elements; a primitive active element, must be found somewhere; and Hartley found it in the stimulative power of sensation over the muscles. All our muscular motions, according to him, were originally automatic, and excited by the stimulus of sensations; as, no doubt, many of them were and are. After a muscular contraction has been sufficiently often excited by a sensation, then, in Hartley's opinion, the idea or remembrance of the sensation acquires a similar power of exciting that same muscular contraction. Here is the first germ of volition: a muscular action excited by an idea. After this, every combination of associated ideas into which that idea or remembrance enters, and which, therefore, cannot be recalled without recalling it, obtains the power of recalling also the muscular motion which has come under its control. This is Hartley's notion of the point of junction between our intellectual states and our muscular actions, which is the foundation of the theory of Volition. It involves two assumptions, both of which are merely hypothe-

tical. One is, that *all* muscular action is originally excited by sensations; which has never been proved, and which there is much evidence to contradict. The other is, that between the primitive automatic character of a muscular contraction, and its ultimate state of amenability to the will, an intermediate condition is passed through, of excitability by the idea of the sensation by which the motion was at first excited: that the intervention of this idea is necessary in all cases of voluntary power; and that the recalling of it is the indispensable machinery of voluntary action. This is a mere hypothesis, which consciousness does not vouch for, and which no evidence has been brought to substantiate.

Mr. Bain has made a great advance on this theory. Those who are acquainted with the French metaphysical writers of this century, or even with the first paper of M. Cousin's 'Fragments Philosophiques,' will remember the important modification made by M. Laromiguière in Condillac's psychological system. M. Laromiguière had noted in Condillac the same defect which has been pointed out in the Association philosophers; and as Condillac had placed the passive phenomenon, Sensation, at the centre of his system, M. Laromiguière corrected him by putting instead of it the active phenomenon, Attention, as the fundamental fact by which to explain the active half of the mental phenomena. Mr. Bain's theory (the germ of which is in a passage cited by him from the eminent physiologist, Müller), stands in nearly the same relation to Hartley's as Laromiguière's to that of Condillac. He has widened his basis by the admission of a second primitive element. He holds that the brain does not act

solely in obedience to impulses, but is also a self-acting instrument; that the nervous influence which, being conveyed through the motory nerves, excites the muscles into action, is generated automatically in the brain itself, not, of course, lawlessly and without a cause, but under the organic stimulus of nutrition; and manifests itself in the general rush of bodily activity, which all healthy animals exhibit after food and repose, and in the random motions which we see constantly made without apparent end or purpose by infants. This doctrine, of which the accumulated proofs will be found in Mr. Bain's first volume (pages 73 to 80), supplies him with a simple explanation of the origin of voluntary power. Among the numerous motions given forth indiscriminately by the spontaneous energy of the nervous centre, some are accidentally hit on, which are found to be followed by a pleasure, or by the relief of a pain. In this case, the child is able, to a certain extent, to prolong that particular motion, or to abate it; and this, in our author's opinion, is the sole original power which we possess over our bodily motions, and the ultimate basis of voluntary action. The pleasure which the motion produces, or the pain which it relieves, determines the detention or relinquishment of that particular muscular movement. Why there is this natural tendency to detain or to get rid of a muscular contraction which influences our sensations, as well as why that tendency is towards pleasure and from pain, instead of being the reverse, cannot be explained. The author's reason for considering this to be our only original power over our bodily movements, is not that the supposition affords any help in clearing up the mystery, or

possesses any superiority of antecedent probability; for it is just as likely *à priori* that we should be able, by a wish, to select and originate a bodily movement, as that we should merely be able to prolong one which has already been excited by the spontaneous energies of our organisation. Mr. Bain's reason for preferring the latter theory, is merely that the evidence is in its favour; that no other is consistent with observation of children and young animals. We will exhibit a part of the exposition in his own words.

'Dr. Reid has no hesitation in classing the voluntary command of an organ, that is, the sequence of feeling and action implied in all acts of will, among instincts. The power of lifting a morsel of food to the mouth is, according to him, an instinctive or pre-established conjunction of the wish and the deed; that is to say, the emotional state of hunger coupled with the sight of a piece of bread, is associated through a primitive link of the mental constitution with the several movements of the hand, arm, and mouth concerned in the act of eating. This assertion of Dr. Reid's may be simply met by appealing to the facts. Is it not true that human beings possess at birth any voluntary command of their limbs whatsoever. A babe of two months old cannot use its hands in obedience to its desires. The infant can grasp nothing, hold nothing, can scarcely fix its eyes on anything. Dr. Reid might just as easily assert that the movements of a ballet-dancer are instinctive, or that we are born with an already established link of causation in our minds between the wish to paint a landscape and the movements of a painter's arm. If the more perfect command of our voluntary movements implied in every art be an acquisition, so is the less perfect command of these movements, that grows upon a child during the first years of life. . . .

'But the acquisition must needs repose upon some fundamental property of our nature that may properly be styled an instinct. It is this initial germ or rudiment that I am

now anxious to fasten upon and make apparent. There certainly does exist in the depths of our constitution a property, whereby certain of our feelings, especially the painful class, *impel to action of some kind or other*. This, which I have termed the volitional property of feeling, is not an acquired property. From the earliest infancy a pain has a tendency to excite the active organs, as well as the emotional expression, although as yet there is no channel prepared whereby the stimulus may flow towards the appropriate members. The child whose foot is pricked by a needle in its dress is undoubtedly impelled by an active stimulus, but as no primitive link exists between an irritation in the foot and the movement of the hand towards the part affected, the stimulus is wasted on vain efforts, and there is nothing to be done but to drown the pain by the outburst of pure emotion. It is the property of almost every feeling of pain to stimulate *some action* for the extinction or abatement of that pain; it is likewise the property of many emotions of pleasure to stimulate an action for the continuance and increase of the pleasure; but the primitive impulse does not in either case determine *which action*. . . .

‘ If at the moment of some acute pain, there should accidentally occur a spontaneous movement, and if that movement sensibly alleviates the pain, then it is that the volitional impulse belonging to the feeling will show itself. The movement accidentally begun through some other influence, will be sustained through this influence of the painful emotion. In the original situation of things, the acute feeling is unable of itself to bring on the precise movement that would modify the suffering; there is no primordial link between a state of suffering and a train of alleviating movements. But should the proper movement be once actually begun, and cause a felt diminution of the acute agony, the spur that belongs to states of pain would suffice to sustain this movement. . . . The emotion cannot invite, or suggest, or waken up the appropriate action; nevertheless, the appropriate action, once there, and sensibly

telling upon the irritation, is thereupon kept going by the active influence, the volitional spur of the irritated consciousness. In short, if the state of pain cannot awaken a dormant action, a present feeling can at least maintain a present action. This, so far as I can make out, is the original position of things in the matter of volition. It may be that the start and the movements resulting from an acute smart, may relieve the smart, but that would not be a volition. In volition there are actions quite distinct from the manifested movements due to the emotion itself; these other actions rise at first independently and spontaneously, and are clutched in the embrace of the feeling when the two are found to suit one another in the alleviation of pain or the effusion of pleasure.

'An example will perhaps place this speculation in a clearer light. An infant lying in bed has the painful sensation of chillness. This feeling produces the usual emotional display—namely, movements, and perhaps cries and tears. Besides these emotional elements there is a latent spur of volition, but with nothing to lay hold of as yet, owing to the disconnected condition of the mental arrangements at our birth. The child's spontaneity, however, may be awake, and the pained condition will act so as to irritate the spontaneous centres, and make their central stimulus flow more copiously. In the course of a variety of spontaneous movements of arms, legs, and body, there occurs an action that brings the child in contact with the nurse lying beside it; instantly warmth is felt, and this alleviation of the painful feeling becomes immediately the stimulus to sustain the movement going on at that moment. That movement, when discovered, is kept up in preference to the others occurring in the course of the random spontaneity. . . .

'By a process of cohesion or acquisition, coming under the law of association, the movement and the feeling become so linked together, that the feeling can at after times waken the movement out of dormancy; this is the state of matters in the maturity of volition. The infant of twelve months,

under the stimulus of cold, can hitch nearer the side of the nurse, although no spontaneous movements to that effect happen at the moment; past reflection has established a connexion that did not exist at the beginning, whereby the feeling and action have become linked together as cause and effect.'—*The Senses and the Intellect*, pp. 292-6.

In confirmation and illustration of these remarks, we quote from another part of the same volume the following 'notes of observation made upon the earliest movements of two lambs seen during the first hour of their birth, and at subsequent stages of their development.'

'One of the lambs, on being dropped, was taken hold of by the shepherd and laid on the ground so as to rest on its four knees. For a very short time, perhaps not much above a minute, it kept still in this attitude; a certain force was doubtless exerted to enable it to retain this position; but the first decided exertion of the creature's own energy was shown in standing up on its legs, which it did after the pause of little more than a minute. The power thus put forth I can only describe as a spontaneous burst of the locomotive energy, under this condition—namely, that as all the four limbs were actuated at the same instant, the innate power must have been guided into this quadruple channel, in consequence of that nervous organisation that constitutes the four limbs one related group. The animal now stood on its legs, the feet being considerably apart, so as to widen the base of support. The energy that raised it up continued flowing in order to maintain the standing posture, and the animal doubtless had the consciousness of such a flow of energy, as its earliest mental experience. This standing posture was continued for a minute or two in perfect stillness. Next followed the beginnings of locomotive movement. At first a limb was raised and set down again, then came a second movement that widened the animal's base without altering its position. When a more complex

movement of its limbs came on, the effect seemed to be to go sideways; another complex movement led forwards; but at the outset there appeared to be nothing to decide one direction rather than another, for the earliest movements were a jumble of side, forward, and backward. Still, the alternation of limb that any consecutive advance required, seemed within the power of the creature during the first ten minutes of life. Sensation as yet could be of very little avail, and it was evident that action took the start in the animal's history. The eyes were wide open, and light must needs have entered to stimulate the brain. The contact with the solid earth, and the feelings of weight and movement, were the earliest feelings. In this state of uncertain wandering with little change of place, the lamb was seized hold of and carried up to the side of the mother. This made no difference till its nose was brought into contact with the woolly skin of the dam, which originated a new sensation. Then came a conjunction manifestly of the volitional kind. There was clearly a tendency to sustain this contact, to keep the nose rubbing upon the side and belly of the ewe. Finding a certain movement to have this effect, that movement was sustained; exemplifying what I consider the primitive or fundamental part of volition. Losing the contact, there was yet no power to recover it by a direct action, for the indications of sight at this stage had no meaning. The animal's spontaneous irregular movements were continued; for a time they were quite fruitless, until a chance contact came about again, and this contact could evidently sustain the posture or movement that was causing it. The whole of the first hour was spent in these various movements about the mother, there being in that short time an evident increase of facility in the various acts of locomotion, and in commanding the head in such a way as to keep up the agreeable touch. A second hour was spent much in the same manner, and in the course of the third hour the animal, which had been entirely left to itself, came upon the teat, and got this into its mouth. The

spontaneous workings of the mouth now yielded a new sensation, whereby they were animated and sustained, and unexpectedly the creature found itself in the possession of a new pleasure; the satisfaction first of mouthing the object—next, by-and-by, the pleasure of drawing milk; the intensity of this last feeling would doubtless give an intense spur to the coexisting movements, and keep them energetically at work. A new and grand impression was thus produced, remaining after the fact, and stimulating exertion and pursuit in order to recover it.

‘Six or seven hours after birth the animal had made notable progress; and locomotion was easy, the forward movement being preferred but not predominant. The sensations of sight began to have a meaning. In less than twenty-four hours the animal could, at the sight of the mother ahead, move in the forward direction at once to come up to her, showing that a particular visible image had now been associated with a definite movement; the absence of any such association being most manifest in the early movements of life. It could proceed at once to the teat and suck, guided only by its desire and the sight of the object. It was now in the full exercise of the locomotive faculty; and very soon we could see it moving with the nose along the ground in contact with the grass, the preliminary of seizing the blades in the mouth. . . .

‘The observations proved distinctly three several points—namely, first the existence of spontaneous action as the earliest fact in the creature’s history; second, the absence of any definite bent prior to experienced sensation; and third, the power of a sensation actually experienced to keep up the coinciding movement of the time, thereby constituting a voluntary act in the initial form. What was also very remarkable, was the rate of acquisition, or the rapidity with which all the associations between sensations and actions became fixed. A power that the creature did not at all possess naturally, got itself matured as an acquisition in a few hours; before the end of a week the lamb was capable

of almost anything belonging to its sphere of existence; and at the lapse of a fortnight, no difference could be seen between it and the aged members of the flock.'—pp. 404-6.

The larger half of Mr. Bain's first volume is occupied by the exposition of Association. His exemplification and illustration of this fundamental phenomenon of mind, in its two varieties—adhesive association by contiguity in time or place, and suggestion by resemblance—are quite unexampled in richness, clearness, and comprehensiveness. The whole of the intellectual phenomena, as distinguished from the emotional, he considers as explicable by that law. But to render this possible, the law must be conceived in its utmost generality. Association is not between ideas of sensation alone. The following is the author's statement of the two laws of association, the law of Contiguity, and that of Similarity:—

'Actions, sensations, and states of feeling, occurring together or in close succession, tend to grow together or cohere in such a way that when any one of them is afterwards presented to the mind, the others are apt to be brought up in idea.'—*The Senses and the Intellect*, p. 348.

'Present actions, sensations, thoughts, or emotions, tend to revive their like among previous impressions.'—p. 451.

One of the leading features in Mr. Bain's application of these laws to the analysis of phenomena, is the great use he makes of the muscular sensations, in explaining our impressions of, and judgments respecting, things physically external to us. The distinction between these sensations and those of touch, in the legitimate sense of the word, and the prominent part they take in the composition of our ideas of resistance or solidity, and extension, were first pointed out by

Brown, and were the principal addition which he made to the analytical exposition of the mind. Mr. Bain carries out the idea to a still greater length, and his developments of it are highly instructive, though he sometimes, perhaps, insists too much upon it, to the prejudice of other elements equally or more influential. Thus, in his explanation of the acquired perception of distance and magnitude by sight, he lays almost exclusive stress on the sensations accompanying the muscular movements by which the eyes are adapted to different distances from us, or are made to pass along the lengths and breadths of visible objects. That this is one of the sources of the acquired perceptions of sight, cannot be doubted; but that it is the principal one, no one will believe, who considers that all the impression of unequal distances from us that a picture can give, is produced not only without this particular indication, but in contradiction to it. The signs by which we mainly judge are the effects of perspective, both linear and aerial; in other words, the differences in the actual picture made on the retina: the imitation of which constitutes the illusion of the painter's art, and which we should have been glad to see illustrated by Mr. Bain, as he is so well able to do, instead of being merely acknowledged by a quotation in a note (p. 380). We regret that our limits forbid us to quote (p. 372-6) his explanation of the mode whereby, in his opinion, the feeling of resistance, a result of our muscular sensations, generates the notion, often supposed to be instinctive, of an external world.

Respecting the law of Association by Contiguity, so much had been done, with such eminent ability,

by former writers, that this part of Mr. Bain's exposition is chiefly original in the profuseness and minuteness of his illustrations. To bring up the theory of the law of Similarity to the same level, much more remained to do, that law having been rather unaccountably sacrificed to the other by some of the Association psychologists; among whom Mr. James Mill, in his 'Analysis,' even endeavoured, to resolve it into contiguity; an attempt which is perhaps the most inconclusive part of that generally acute and penetrating performance, association by resemblance being, as Mr. Bain observes, presupposed by, and indispensable to the conception of, association by contiguity. The two kinds of association are indeed so different, that the predominance of each gives rise to a different type of intellectual character; an eminent degree of the former constituting the inductive philosopher, the poet and artist, and the inventor and originator generally; while adhesive association gives memory, mechanical skill, facility of acquisition in science or business, and practical talent so far as unconnected with invention.

To the long chapters on Contiguity and Similarity, Mr. Bain subjoins a third on what he terms Compound Association; 'where several threads, or a plurality of links or bonds of connexion, concur in reviving some previous thought or mental state' (p. 544); which they consequently recall more vividly: a part of the subject too little illustrated by former writers, and which includes, among many others, the important heads of 'the singling out of one among many trains,' and what our author aptly terms 'obstructive association.' The subject is concluded by a chapter on 'Con-

structive Association,' analysing the process by which the mind forms 'combinations or aggregates different from any that have been presented to it in the course of experience,' and showing this to depend on the same laws. We are unable to find room for the smallest specimen of these chapters, which are marked with our author's usual ability, and fill up what is partially a hiatus in most treatises on Association.

Mr. Bain's exposition of the Emotions is not of so analytical a character as that of the intellectual phenomena. He considers it necessary, in this department, to allow a much greater range to the instinctive portion of our nature; and has exhibited what may be termed the natural history of the emotions, rather than attempted to construct their philosophy. It is certain that the attempts of the Association psychologists to resolve the emotions by association, have been on the whole the least successful part of their efforts. One fatal imperfection is obvious at first sight: the only part of the phenomenon which their theory explains, is the suggestion of an idea or ideas, either pleasurable or painful—that is, the merely intellectual part of the emotion; while there is evidently in all our emotions an animal part, over and above any which naturally attends on the ideas considered separately, and which these philosophers have passed without any attempt at explanation. It is a wholly insufficient account of Fear, for example, to resolve it into the calling up, by association, of the idea of the dreaded evil; since, were this all, the physical manifestations that would follow would be the same in kind, and mostly less in degree, than those which the evil would itself produce if actually ex-

perienced ; whereas, in truth, they are generically distinct ; the screams, groans, contortions, &c., which (for example) intense bodily suffering produces, being altogether different phenomena from the well-known physical effects and manifestations of the passion of terror. It is conceivable that a scientific theory of Fear may one day be constructed, but it must evidently be the work of physiologists, not of metaphysicians. The proper office of the law of association in connexion with it, is to account for the transfer of the passion to objects which do not naturally excite it. We all know how easily any object may be rendered dreadful by association, as exemplified by the tremendous effect of nurses' stories in generating artificial terrors.

We must not, therefore, expect to find in the half volume which Mr. Bain has dedicated to this subject, any attempt at a general analysis of the emotions. He has not even (except in one important case, to which we shall presently advert) entered, with the fulness which belongs to his plan, and which marks the execution of every other part of it, into the important inquiry, how far some emotions are compounded out of others. He gives a general indication of his opinion on the point ; but his illustrations of it are scattered, and mostly incidental. He has, however, written the natural history of the emotions with great felicity, in a manner at once scientific and popular ; insomuch that this part of his work presents attractions even to the unscientific reader. Mr. Bain's classification of the emotions is different from, and more comprehensive than, any other which we have met with. He begins with 'the feelings connected with the free vent

of emotion in general, and with the opposite case of restrained or obstructed outburst;' the feelings, in short, of liberty or restraint in the utterance of emotion; which he regards as themselves emotions, and entitled, on account of their superior generality, to be placed at the head of the catalogue. He next proceeds to one of the simplest as well as most universal of our emotions—Wonder. The third on his list is Terror. The fourth is 'the extensive group of feelings implied under the title of the Tender Affections.' The consideration of these feelings is by most writers blended with that of Sympathy; which is carefully distinguished from them by our author, and treated separately, not as an emotion, but as the capacity of taking on the emotions, or mental states generally, of others. A character may possess tenderness without being at all sympathetic, as is the case with many selfish sentimentalists; and the converse, though not equally common, is equally in human nature. From these he passes to a group which he designates by the title, Emotions of Self: including Self-esteem, or Self-complacency, in its various forms of Conceit, Pride, Vanity, &c., which he regards as cases of the emotions of tenderness directed towards self, and has largely illustrated this view of them. The sixth class is the emotions connected with Power. The seventh is the Irascible Emotions. The eighth is a group not hitherto brought forward into sufficient prominence, the emotions connected with Action. 'Besides the pleasures and pains of Exercise, and the gratification of succeeding in an end, with the opposite mortification of missing what is laboured for, there is in the attitude of *pursuit*, a peculiar state of mind, so far

agreeable in itself, that factitious occupations are instituted to bring it into play. When I use the term *plot-interest*, the character of the situation alluded to will be suggested with tolerable distinctness.' This grouping together of the emotions of hunting, of games, of intrigue of all sorts, and of novel-reading, with those of an active career in life, seems to us equally original and philosophical. The ninth class consists of the emotions caused by the operations of the Intellect. The tenth is the group of feelings connected with the Beautiful. Eleventh and last, comes the Moral Sense.

Of these, the four first are regarded by Mr. Bain as original elements of our nature, having their root in the constitution of the nervous system, and not explicable psychologically. The remaining seven he considers as generated by association from these four, with the aid of certain combinations of circumstances. Though, as already remarked, he does not discuss this question in the express and systematic manner which his general scheme would appear to require, he has said many things which throw a valuable light on it, together with some which we consider questionable. But we still desiderate an analytical philosophy of the emotional, like that which he has furnished of the intellectual, part of our constitution. Much of the material is ready to his hand, and only requires co-ordination under the universal law of mind which he has so well expounded. For example, the most complicated of all his eleven classes, the æsthetic group of emotions, has been analysed to within a single step of the ultimate principle, by thinkers who did not see, and would not have accepted, the one step which remained. Mr. Ruskin would probably be much

astonished were he to find himself held up as one of the principal apostles of the Association Philosophy in Art. Yet, in one of the most remarkable of his writings, the second volume of 'Modern Painters,' he aims at establishing, by a large induction and a searching analysis, that all things are beautiful (or sublime) which powerfully recall, and none but those which recall, one or more of a certain series of elevating or delightful thoughts. It is true that in this coincidence Mr. Ruskin does not recognise causation, but regards it as a pre-established harmony, ordained by the Creator, between our feelings of the Beautiful and certain grand or lovely ideas. Others, however, will be inclined to see in this phenomenon, not an arbitrary dispensation of Providence, which might have been other than it is, but a case of the mental chemistry so often spoken of; and will think it more in accordance with sound methods of philosophizing to believe, that the great ideas so well recognised by Mr. Ruskin, when they have sunk sufficiently deep into our nervous sensibility, actually generate, by composition with one another and with other elements, the æsthetic feelings which so nicely correspond to them.

The last of our author's eleven classes, that of Moral Emotion, is the only one on which, in relation to the problem of its composition, he puts forth his whole strength. The question whether the moral feelings are intuitive or acquired—a point so often and so warmly contested between the rival schools of Psychology—has never before, we think, been so well or so fully argued on the anti-intuitive side. This masterly chapter would serve better than any other to

give a correct idea of Mr. Bain's philosophical capacity and turn of mind; but, unfortunately, either extracts or an abridgment would do it injustice, as they would impair the argument by mutilating it. Mr. Bain's theory is, that the moral emotions are of an extremely complicated character; a compound, into which the social affections, and sympathy (which is a different thing from the social affections), enter largely, as well as, in many cases, the almost equally common fact of disinterested antipathy. But the peculiar feeling of obligation included in the moral sentiment, Mr. Bain regards as wholly created by external authority. He considers this character as impressed upon the feeling entirely by the idea of punishment. The purely disinterested character which the feeling assumes after appropriate cultivation, he holds to be one of the numerous instances of a feeling transferred by association to objects not containing in themselves that which originally excited it. This general conception of the origin of the moral sentiment is nothing new; but there is considerable novelty, as well as ability, in the mode in which it is worked out: and without, on the present occasion, expressing any opinion on this *vexata quæstio*, we can safely recommend Mr. Bain's dissertation to the special study of those who wish to know the theory entertained on this subject by the Association school, and the best which they have to say in its support.

From the Emotions, Mr. Bain proceeds to the Will; and if, on the former subject, the reader who has previously gone through Mr. Bain's first volume finds less of psychological analysis than he probably expected, such a complaint will not be made on the

topic which succeeds. By no previous psychologist *has the Volitional part of our nature been gone into* with such minute detail, and the whole of the phenomena connected with it set forth and analysed with such fulness, and such grasp of the subject. We have already stated the view taken by our author of the origin, or first germ, of our voluntary powers, which he conceives to be grounded, first, on 'the existence of a spontaneous tendency to execute movements independent of the stimulus of sensations or feelings;' and, secondly, of a power to detain and prolong, or to abate and discontinue, a present movement, under the stimulus of a present pleasure or pain. If this be correct, the original power of the will over our muscles is much the same in extent, as it is and always remains over our thoughts and feelings; for over them, the only direct power we have is that of detaining them before the mind, or (it would perhaps be more correct to say) of producing any number of immediate mental repetitions of them, which is the meaning of what we call Attention. Through ten successive chapters Mr. Bain expands and applies this idea, showing how, in his belief, all the phenomena of volition are erected by Association on this original basis. The titles of some of the chapters and sections will show the comprehensiveness of the scheme:—The Spontaneity of Movement; Link of Feeling and Action; Growth of Voluntary Power; Control of Feelings and Thoughts; Motives or Ends; the Conflict of Motives; Deliberation, Resolution, Effort; Desire; the Moral Habits; Prudence, Duty, Moral Inability. It is only in the eleventh chapter, after the analysis of the phenomena

is completed, that the author encounters the question *which usually, in the writings of metaphysicians,* usurps nearly all the space devoted to the phenomena of Will: we need hardly say that we refer to the Free-Will controversy. Mr. Bain is of opinion that the terms Freedom and Necessity are both equally inappropriate, equally calculated to give a false view of the phenomena. He thinks the word Necessity 'nothing short of an incumbrance' in the sciences generally. But he adheres, in an unqualified manner, to the universality of the law of Cause and Effect, or the uniformity of sequence in natural phenomena, to which he does not think that the determinations of the will are in any manner an exception. He holds that men's volitions and voluntary actions might be as certainly predicted, by any one who was aware of the state of the psychological agencies operating in the case, as any class of physical phenomena may be predicted from causes in operation. We quote, not as the best passage, but as the one which best admits of extraction, a portion of the controversial part of this chapter, being that in which the author examines the appeal made to consciousness as an infallible criterion in all psychological difficulties:—

'A bold appeal is made by some writers to our consciousness, as testifying in a manner not to be disputed the liberty of the will. Consciousness, it is said, is our ultimate and infallible criterion of truth. To affirm it erring, or mendacious, would be to destroy the very possibility of certain knowledge, and even to impugn the character of the Deity. Now this infallible witness, we are told, attests that man is free, wherefore the thing must be so. The respectability and number of those that have made use of this argument compel me to examine it. I confess that I find no cogency

in it. As usual, there is a double sense in the principal term, giving origin to a potent fallacy. . . . For the purpose now in view, the word [consciousness] implies the knowledge that we have of the successive phases of our own mind. We feel, think, and act, and know that we do so; we can remember a whole train of mental phenomena mixed up of these various elements. The order of succession of our feelings, thoughts, and actions is a part of our information respecting ourselves, and we can possess a larger or a smaller amount of such information, and, as is the case with other matters, we may have it in a very loose or in a very strict and accurate shape. The mass of people are exceedingly careless about the study of mental co-existences and successions; the laws of mind are not understood by them with anything like accuracy. Consciousness, in this sense, resembles observation as regards the world. By means of the senses, we take in, and store up, impressions of natural objects,—stars, mountains, rivers, plants, animals, cities, and the works and ways of human beings,—and according to our opportunities, ability, and disposition, we have in our memory a greater or less number of those impressions, and in greater or less precision. Clearly, however, there is no infallibility in what we know by either of these modes, by consciousness as regards thoughts and feelings, or by observation as regards external nature; on the contrary, there is a very large amount of fallibility, fallacy, and falsehood in both the one and the other. Discrepancy between the observations of different men upon the same matter of fact, is a frequent circumstance, the rule rather than the exception. . . . If such be the case with the objects of the external senses, what reason is there to suppose that the cognizance of the mental operations should have a special and exceptional accuracy? Is it true that this cognizance has the definiteness belonging to the property of extension in the outer world? Very far from it; the discrepancy of different men's renderings of the human mind is so pronounced, that we cannot attribute it to the difference of the

thing looked at, we must refer it to the imperfection in the manner of taking cognizance. If there were any infallible introspective faculty of consciousness, we ought at least to have had some one region of mental facts where all men were perfectly agreed. The region so favoured must of necessity be the part of mind that could not belong to metaphysics; there being nothing from the beginning to convert or to look at in two ways, there could be no scope for metaphysical disquisition. The existence of metaphysics, as an embarrassing study, or field of inquiry, is incompatible with an unerring consciousness.'—The Emotions and the Will, pp. 556, 557.

Mr. Bain then proceeds to show, but at too much length for quotation, that the only fact testified to by any person's consciousness is an instantaneous fact—'the state of his or her own feelings at any one moment:' that when the person proceeds to speak of a past, and merely remembered feeling, fallibility begins: that when he speaks of sequences, and the law of a feeling, even in himself, much more in mankind generally, he transcends the dominion of consciousness altogether, and enters on that of observation, which, whether introspective or external, is subject to a thousand errors. Now the free-will question is emphatically one of law, and can be determined only by deep philosophizing, not by a brief appeal to the fancies of an individual concerning himself. A man's consciousness can no more inform him what laws his volitions secretly obey, than his senses, when he beholds falling bodies, furnish him with the corresponding information respecting the law of gravitation.

The work concludes with two chapters on special subjects, the one on Belief, the other on Conscious-

ness; subjects discussed separately, and in the last stage of the exposition, in consequence of the peculiar view taken of them by Mr. Bain, which differs from that of all previous metaphysicians.

Belief is, of all the phenomena usually classed as intellectual, that which the Association psychologists have hitherto been the least successful in analysing; though it has given occasion to some able and highly instructive illustrations, by Mr. James Mill and Mr. Herbert Spencer, of the power of indissoluble association. But the opinion which these authors have advanced, that belief is nothing but an indissoluble association between two ideas, seems an inadequate solution of the problem; because, in the first place, if the fact were so, belief itself must always be indissoluble; which, evidently, it is not; and, in the second place, one does not see what, on this theory, is the difference between believing the affirmative and the negative of a proposition, since in either case (if the theory be true), the idea expressed by the subject of the proposition must inseparably and irresistibly recall the idea expressed by the predicate. The doctrine of these philosophers would have been irrefragable, had they limited it to affirming that an indissoluble association (or let us rather say, an association for the present irresistible), usually *commands* belief; that when such an association exists between two ideas, the mind, especially if destitute of scientific culture, has great difficulty in not believing that there is a constancy of connexion between the corresponding phenomena, considered as facts in nature. But, even in the strongest cases of this description, a mind exercised in abstract speculation can reject the belief,

though unable to get over the association. A Berkeleyan, for example, does not believe in the real existence of matter, though the idea is excited in his mind by his muscular sensations as irresistibly as in other people.

Mr. Bain's opinion is, that the difficulty experienced by the Association psychologists in giving an account of Belief, and the insufficient analysis with which they have contented themselves, arise from their looking at Belief too exclusively as an intellectual phenomenon, and disregarding the existence in it of an active element. His doctrine is, that Belief has no meaning, except in reference to our actions; that the distinctive characteristic of Belief is that it commands our will.

'An intellectual notion or conception is indispensable to the act of believing; but no mere conception that does not directly or indirectly implicate our voluntary exertions, can ever amount to the state in question.' (p. 568.) 'The primordial form of belief is expectation of some contingent future, about to follow on an action. Wherever any creature is found performing an action, indifferent in itself, with a view to some end, and adhering to that action with the same energy that would be manifested under the actual fruition of the end, we say that the animal possesses confidence, or belief, in the sequence of two different things, or in a certain arrangement of nature, whereby one phenomenon succeeds to another. The glistening surface of a pool or rivulet, appearing to the eye, can give no satisfaction to the agonies of thirst; but such is the firm connexion established in the mind of man and beast between the two properties of the same object, that the appearance to the eye fires the energies of pursuit no less strongly than the actual contact with the alimentary surface. An alliance so formed is a genuine example of the condition of belief.'—pp. 569, 570.

No one will dispute that 'the genuineness of the state of belief is tested by the control of the actions' (p. 570.) If we really believe a statement, we are willing to commit ourselves in conduct, on the prospect of finding the result accord with our belief. And there is no doubt that it is this command over the actions, which gives all its importance to that particular state of mind, and leads to its being named and classed separately.⁹¹ Yet the question remains, *what is that state of mind?* The action which follows is not the belief itself, but a consequence of the belief. Where there is an effect to be accounted for, there must be something in the cause to account for it. Since the willingness to commit ourselves in conduct occurs in some cases, and does not occur in others, there must be some difference between the former set of cases and the latter, as regards the antecedent phenomena. What is this difference? According to Mr. Bain, it does not lie in the strength of the tie of association between the ideas of the facts conceived.

'I can imagine the mind receiving an impression of co-existence or sequence, such as the coincidence of relish with an apple, or other object of food; and this impression repeated until, on the principle of association, the one shall, without fail, at any time suggest the other; and yet nothing done in consequence, no practical effect given to the coincidence. I do not know any purely intellectual property that would give to an associated couple the character of an article of belief; but there is that in the volitional promptings which seizes hold of any indication leading to an end, and abides by such instrumentality if it is found to answer. Nay more, there is the tendency to go beyond the actual experience, and not to desist until the occurrence of a positive failure or check. So that the mere repetition of an

intellectual impress would not amount to a conviction without this active element, which, although the source of many errors, is indispensable to the mental condition of belief. The legitimate course is to let experience be the corrector of all the primitive impulses; to take warning by every failure, and to recognise no other canon of validity. . . . We find after trials, that there is such a uniformity in nature as enables us to presume that an event happening to-day will happen also to-morrow, if we can only be sure that all the circumstances are exactly the same. . . . It is part of the intuitive tendencies of the mind to generalize in this way; but these tendencies, being as often wrong as right, have no validity in themselves; and the real authority is experience. The long series of trials made since the beginning of observation, has shown how far such inferences can safely be carried; and we are now in possession of a body of rules, in harmony with the actual course of nature, for guiding us in carrying on these operations.—pp. 585, 586.

So that, after all, Mr. Bain regards belief as a case of 'intuitive tendency;' but not a case *sui generis*. He considers it as included under the general law of Volition. The spontaneous activity of the brain, combined with the original property inherent in a painful or pleasurable stimulus, makes us seize and detain all muscular actions which of themselves, and directly, bring pleasure or relief; those actions, in consequence, become, through the law of association, producible by means of our ideas of pleasure or pain; and it is, in the author's view, by an extension of the same general phenomenon, that actions which only remotely, and after a certain delay, attain our ends, come similarly under the command of our ideas of those ends. When this command is established, then, according to him, the phenomenon, Belief, has taken place; namely, belief in the efficacy of the action to

promote the end. This is our author's theory of Belief. An obvious objection to it is, that we entertain beliefs respecting matters in regard to which we have no wishes, and which have no connexion with any of our ends. But to this Mr. Bain answers (and his answer is just), that in such cases there is always a latent imagination that we *might* have some object at stake on the reality of the fact we believe, and a feeling that if we had, we should go forward confidently in the pursuit of any such object. We quote the following passage for the practical lesson conveyed in it:—

'A single trial, that nothing has ever happened to impugn, is able of itself to leave a conviction sufficient to induce reliance under ordinary circumstances. It is the active prompting of the mind itself that instigates, and in fact constitutes, the believing temper; unbelief is an after product, and not the primitive tendency. Indeed, we may say, that the inborn energy of the brain gives faith, and experience scepticism. . . . We must treat it [belief] as a strong primitive manifestation, 'derived from the natural activity of the system, and taking its direction and ratification from experience. The "anticipation of nature," so strenuously repudiated by Bacon, is the offspring of this characteristic of the mental system. In the haste to act, while the indications imbibed from contact with the world are still scanty, we are sure to extend the application of actual trials a great deal too far, producing such results as have just been named. With the active tendency at its maximum, and the exercise of intelligence and acquired knowledge at the minimum, there can issue nothing but a quantity of rash enterprises. That these are believed in, we know from the very fact that they are undertaken. . . . The respectable name "generalization," implying the best products of enlightened scientific research, has also a different meaning, expressing one of the

most erroneous impulses and crudest determinations of untutored human nature. To extend some familiar and narrow experience, so as to comprehend cases most distant, is a piece of mere reckless instinct, demanding the severest discipline for its correction. . . . Sound belief, instead of being a pacific and gentle growth, is in reality the battering of a series of strongholds, the conquering of a country in hostile occupation. This is a fact common both to the individual and to the race. . . . The only thing for mental philosophy to do on such a subject, is to represent, as simply and clearly as possible, those original properties of our constitution that are chargeable with such wide-spread phenomena. It will probably be long ere the last of the delusions attributable to this method of believing first and proving afterwards can be eradicated from humanity. 'For although all those primitive impressions that find a speedy contradiction in realities from which we cannot escape, cease to exercise their sway after a time, there are other cases less open to correction, and remaining to the last as portions of our creed.'—pp. 582-4.

It is assuredly a strange anomaly, that so many authors, after having applied the whole force of their intellects to prove the existence in the human mind of intellectual or moral instincts, proceed, without any argument at all, to legitimate and consecrate everything which those instincts prompt, as if an instinct never could go astray; a consecration not usually extended to our physical instincts, though even there we often notice a certain tendency in the same direction, not sufficient to persuade when there is no predisposition to believe, but amounting to a considerable makeweight to weak arguments on the side of an existing prepossession. This grave philosophical, leading to still graver practical error, is always (as in the passage quoted) duly rebuked by

the author. As a portion, however, of the theory of Belief, we desiderate a more complete analysis of the psychological process by which ulterior experience, or a more correct interpretation of experience, modifies the original tendency so powerfully described by the author, and subdues belief into subordination and due proportion to evidence.

It only remains to speak of Mr. Bain's theory of Consciousness, which is the subject of his final chapter. He regards it as being simply the same thing with discrimination of difference. Consciousness is only awakened by the shock of the transition from one physical or mental state to another. Hobbes had remarked, that if any one mode of sensation or feeling were always present, we should probably be unconscious of its existence.

‘There are notable examples to show that one unvarying action upon the senses fails to give any perception whatever. Take the motion of the earth about its axis, and through space, whereby we are whirled with immense velocity, but at a uniform pace, being utterly insensible of the circumstance. So in a ship at sea, we may be under the same insensibility, whereas in a carriage we never lose the feeling of being moved. The explanation is obvious. It is the change from rest to motion that awakens our sensibility, and conversely from motion to rest. A uniform condition as respects either state is devoid of any quickening influence on the mind. Another illustration is supplied by the pressure of the air on the surface of the body. Here we have an exceedingly powerful effect upon one of the special senses. The skin is under an influence exactly of that nature that wakens the feeling of touch, but no feeling comes. Withdraw any portion of the pressure, as in mounting in a balloon, and sensibility is developed. A constant impression is thus to the mind the same as a blank. Our partial un-

consciousness as to our clothing is connected with the constancy of the object. The smallest change at any time makes us sensible or awake to the contact. If there were some one sound, of unvarying tone and unremitted continuance, falling on the ear from the first moment of life to the last, we should be as unconscious of the existence of that influence as we are of the pressure of the air. Such a sonorous agency would utterly escape the knowledge of mankind, until, as in the other case, some accident, or some discovery in experimental philosophy, had enabled them to suspend or change the degree of the impression made by it. Except under special circumstances, we are unconscious of our own weight, which fact nevertheless can never be absent. It is thus that agencies might exist without being perceived; remission or change being a primary condition of our sensibility. It might seem somewhat difficult to imagine us altogether insensitive to such an influence as light and colour; and yet if some one hue had been present on the retina from the commencement of life, we should incontestably have been utterly blind as far as that was concerned.—*The Emotions and the Will*, pp. 615, 616.

We perceive (in short) or are conscious of, nothing but changes, or events. Consciousness partakes always of the nature of surprise.

Following out this line of thought, Mr. Bain regards knowledge as virtually synonymous with consciousness, and points out that we never have knowledge of one thing by itself. Knowing a thing, means recognising the differences or agreements between that thing and another or others.

‘To know a thing, is to feel it in juxtaposition with some other thing differing from it or agreeing with it. To be simply impressed with a sight, sound, or touch, is not to know anything in the proper sense of the word; knowledge begins when we recognise other things in the way of compa-

risen with the one. My knowledge of redness is my comparison of this one sensation with a number of others differing from or agreeing with it; and as I extend those comparisons, I extend that knowledge. An absolute redness *per se*, like an unvarying pressure,* would escape cognition; for supposing it possible that we were conscious of it, we could not be said to have any knowledge. Why is it that the same sensation is so differently felt by different persons—the sensation of red or green to an artist and an optician—if not that knowledge relates not to the single sensation itself, but to the others brought into relation with it in the mind? When I say I know a certain plant, I indicate nothing, until I inform my hearer what things stand related to it in my mind as contrasting or agreeing. I may know it as a garden weed, that is, under difference from the flowers, fruits, and vegetables cultivated in the garden, and under agreement with the other plants that spring up unsought. I may know it botanically, that is, under difference and agreement with the other members of the order, genus, and species. I may know it artistically, or as compared with other plants on the point of beauty of form and colour. As an isolated object in my mind, I may have a sensation or a perception, although not even that in strict truth, but I can have no knowledge regarding it at all. Thus it is that in the multifarious scene and chaos of distinguishable impressions, not only do different minds fasten upon different individual parts, but fastening on the same parts, arrive at totally different cognitions. Like the two electricities, which cannot exist the one without the other, or the two poles of the magnet, which rise and fall together, no mental impression can exist and be called knowledge, unless in company with some other, as a foil wherewith to compare it. Left to a single unit of consciousness, the mental excitement vanishes. In the intellect, as in the emotions, we live by setting off contrasted states, and consequently no impression can be defined or characterized, except with reference to its accompanying foil. We see how

difficult it is in language to make a meaning explicit by a brief announcement; interpretation, as applied to laws, contracts, testaments, as well as to writing generally, consists in determining what things the writer excluded as opposites to, and looked at as agreements with, the thing named. It is thus everywhere in cognition. A simple impression is tantamount to no impression at all. Quality, in the last resort, implies relation; although, in logic, the two are distinguished. Red and blue together in the mind, actuating it differently, keep one another alive as mental excitement, and the one is really knowledge of the other. So with the red of to-day and the red of yesterday, an interval of blank sensation, or of other sensations, coming between. These two will sustain one another in the cerebral system, and will mutually be raised to the rank of knowledge. Increase the comparisons of difference and agreement, and you increase the knowledge, the character of it being settled by the direction wherein the foils are sought.'—*The Emotions and the Will*, pp. 638-40.

Such is a brief account of a remarkable book; which, once known and read by those who are competent judges of it, is sure to take its place in the very first rank of the order of philosophical speculation to which it belongs. Of the execution, a very insufficient judgment can be formed from our extracts. The book is, indeed, a most difficult one to extract from; for as scarcely any treatise which we know proceeds so much by the way of cumulative proof and illustration, any extract of moderate dimensions is much the same sort of specimen as, we will not say a single stone, but a single row of stones, might be of a completed edifice. We hope that we may have assisted in directing the attention of those who are interested in the subject, to the structure itself;

assuring those who belong to the opposite party in philosophical speculation, that so massive a pile, so rich in the quantity and quality of its materials, even if they are not disposed to take up their abode in it, cannot be used even as a quarry without abundant profit.

A FEW WORDS ON NON-INTERVENTION.*

THERE is a country in Europe, equal to the greatest in extent of dominion, far exceeding any other in wealth, and in the power that wealth bestows, the declared principle of whose foreign policy is, to let other nations alone. No country apprehends or affects to apprehend from it any aggressive designs. Power, from of old, is wont to encroach upon the weak, and to quarrel for ascendancy with those who are as strong as itself. Not so this nation. It will hold its own, it will not submit to encroachment, but if other nations do not meddle with it, it will not meddle with them. Any attempt it makes to exert influence over them, even by persuasion, is rather in the service of others, than of itself: to mediate in the quarrels which break out between foreign States, to arrest obstinate civil wars, to reconcile belligerents, to intercede for mild treatment of the vanquished, or finally, to procure the abandonment of some national crime and scandal to humanity, such as the slave-trade. Not only does this nation desire no benefit to itself at the expense of others, it desires none in which all others do not as freely participate. It makes no treaties stipulating for separate commercial advantages. If the aggressions of barbarians force it to a successful war, and its victorious arms put it in a

* *Fraser's Magazine*, December 1859.

position to command liberty of trade, whatever it demands for itself it demands for all mankind. The cost of the war is its own; the fruits it shares in fraternal equality with the whole human race. Its own ports and commerce are free as the air and the sky: all its neighbours have full liberty to resort to it, paying either no duties, or, if any, generally a mere equivalent for what is paid by its own citizens; nor does it concern itself though they, on their part, keep all to themselves, and persist in the most jealous and narrow-minded exclusion of its merchants and goods.

A nation adopting this policy is a novelty in the world; so much so, it would appear, that many are unable to believe it when they see it. By one of the practical paradoxes which often meet us in human affairs, it is this nation which finds itself, in respect of its foreign policy, held up to obloquy as the type of egoism and selfishness; as a nation which thinks of nothing but of out-witting and out-generalling its neighbours. An enemy, or a self-fancied rival who had been distanced in the race, might be conceived to give vent to such an accusation in a moment of ill-temper. But that it should be accepted by lookers-on, and should pass into a popular doctrine, is enough to surprise even those who have best sounded the depths of human prejudice. Such, however, is the estimate of the foreign policy of England most widely current on the Continent. Let us not flatter ourselves that it is merely the dishonest pretence of enemies, or of those who have their own purposes to serve by exciting odium against us, a class including all the Protectionist writers, and the mouth-pieces of all the despots and of the Papacy. The

more blameless and laudable our policy might be, the more certainly we might count on its being misrepresented and railed at by these worthies. Unfortunately the belief is not confined to those whom they can influence, but is held with all the tenacity of a prejudice, by innumerable persons free from interested bias. So strong a hold has it on their minds, that when an Englishman attempts to remove it, all their habitual politeness does not enable them to disguise their utter unbelief in his disclaimer. They are firmly persuaded that no word is said, nor act done, by English statesmen in reference to foreign affairs, which has not for its motive principle some peculiarly English interest. Any profession of the contrary appears to them too ludicrously transparent an attempt to impose upon them. Those most friendly to us think they make a great concession in admitting that the fault may possibly be less with the English people, than with the English Government and aristocracy. We do not even receive credit from them for following our own interest with a straightforward recognition of honesty as the best policy. They believe that we have always other objects than those we avow; and the most far-fetched and unpalatable suggestion of a selfish purpose appears to them better entitled to credence than anything so utterly incredible as our disinterestedness. Thus, to give one instance among many, when we taxed ourselves twenty millions (a prodigious sum in their estimation) to get rid of negro slavery, and, for the same object, perilled, as everybody thought, destroyed as many thought, the very existence of our West Indian colonies, it was, and still is, believed, that our fine professions were but to delude

the world, and that by this self-sacrificing behaviour we were endeavouring to gain some hidden object, which could neither be conceived nor described, in the way of pulling down other nations. The fox who had lost his tail had an intelligible interest in persuading his neighbours to rid themselves of theirs: but we, it is thought by *our* neighbours, cut off our own magnificent brush, the largest and finest of all, in hopes of reaping some inexplicable advantage from inducing others to do the same.

It is foolish attempting to despise all this—persuading ourselves that it is not our fault, and that those who disbelieve *us* would not believe though one should rise from the dead. Nations, like individuals, ought to suspect some fault in themselves when they find they are generally worse thought of than they think they deserve; and they may well know that they are somehow in fault when almost everybody but themselves thinks them crafty and hypocritical: It is not solely because England has been more successful than other nations in gaining what they are all aiming at, that they think she must be following after it with a more ceaseless and a more undivided chase. This indeed is a powerful predisposing cause, inclining and preparing them for the belief. It is a natural supposition that those who win the prize have striven for it; that superior success must be the fruit of more unremitting endeavour; and where there is an obvious abstinence from the ordinary arts employed for distancing competitors, and they are distanced nevertheless, people are fond of believing that the means employed must have been arts still more subtle and profound. This preconcep-

tion makes them look out in all quarters for indications to prop up the selfish explanation of our conduct. If our ordinary course of action does not favour this interpretation, they watch for exceptions to our ordinary course, and regard these as the real index to the purposes within. They moreover accept literally all the habitual expressions by which we represent ourselves as worse than we are; expressions often heard from English statesmen, next to never from those of any other country—partly because Englishmen, beyond all the rest of the human race, are so shy of professing virtues that they will even profess vices instead; and partly because almost all English statesmen, while careless to a degree which no foreigner can credit, respecting the impression they produce on foreigners, commit the obtuse blunder of supposing that low objects are the only ones to which the minds of their non-aristocratic fellow-countrymen are amenable, and that it is always expedient, if not necessary, to place those objects in the foremost rank.

All, therefore, who either speak or act in the name of England, are bound by the strongest obligations, both of prudence and of duty, to avoid giving either of these handles for misconstruction: to put a severe restraint upon the mania of professing to act from meaner motives than those by which we are really actuated, and to beware of perversely or capriciously singling out some particular instance in which to act on a worse principle than that by which we are ordinarily guided. Both these salutary cautions our practical statesmen are, at the present time, flagrantly disregarding.

We are now in one of those critical moments,

which do not occur once in a generation, when the whole turn of European events, and the course of European history for a long time to come, may depend on the conduct and on the estimation of England. At such a moment, it is difficult to say whether by their sins of speech or of action our statesmen are most effectually playing into the hands of our enemies, and giving most colour of justice to injurious misconception of our character and policy as a people.

To take the sins of speech first: What is the sort of language held in every oration which, during the present European crisis, any English minister, or almost any considerable public man, addresses to parliament or to his constituents? The eternal repetition of this shabby *refrain*—‘We did not interfere, because no English interest was involved;’ ‘We ought not to interfere where no English interest is concerned.’ England is thus exhibited as a country whose most distinguished men are not ashamed to profess, as politicians, a rule of action which no one, not utterly base, could endure to be accused of as the maxim by which he guides his private life; not to move a finger for others unless he sees his private advantage in it. There is much to be said for the doctrine that a nation should be willing to assist its neighbours in throwing off oppression and gaining free institutions. Much also may be said by those who maintain that one nation is incompetent to judge and act for another, and that each should be left to help itself, and seek advantage or submit to disadvantage as it can and will. But of all attitudes which a nation can take up on the sub-

ject of intervention, the meanest and worst is to profess that it interferes only when it can serve its own objects by it. Every other nation is entitled to say, 'It seems, then, that non-interference is not a matter of principle with you. When you abstain from interference, it is not because you think it wrong. You have no objection to interfere, only it must not be for the sake of those you interfere with; they must not suppose that you have any regard for their good. The good of others is not one of the things you care for; but you are willing to meddle, if by meddling you can gain anything for yourselves.' Such is the obvious interpretation of the language used.

There is scarcely any necessity to say, writing to Englishmen, that this is not what our rulers and politicians really mean. Their language is not a correct exponent of their thoughts. They mean a part only of what they seem to say. They do mean to disclaim interference for the sake of doing good to foreign nations. They are quite sincere and in earnest in repudiating this. But the other half of what their words express, a willingness to meddle if by doing so they can promote any interest of England, they do not mean. The thought they have in their minds, is not the interest of England, but her security. What they would say, is, that they are ready to act when England's safety is threatened, or any of her interests hostilely or unfairly endangered. This is no more than what all nations, sufficiently powerful for their own protection, do, and no one questions their right to do. It is the common right of self-defence. But if we mean this, why, in Heaven's name, do we take every possible opportunity of saying, instead of this,

something exceedingly different? Not self-defence, but aggrandizement, is the sense which foreign listeners put upon our words. Not simply to protect what we have, and that merely against unfair arts, not against fair rivalry; but to add to it more and more without limit, is the purpose for which foreigners think we claim the liberty of intermeddling with them and their affairs. If our actions make it impossible for the most prejudiced observer to believe that we aim at or would accept any sort of mercantile monopolies, this has no effect on their minds but to make them think that we have chosen a more cunning way to the same end. It is a generally accredited opinion among Continental politicians, especially those who think themselves particularly knowing, that the very existence of England depends upon the incessant acquisition of new markets for our manufactures; that the chase after these is an affair of life and death to us; and that we are at all times ready to trample on every obligation of public or international morality, when the alternative would be, pausing for a moment in that race. It would be superfluous to point out what profound ignorance and misconception of all the laws of national wealth, and all the facts of England's commercial condition, this opinion presupposes: but such ignorance and misconception are unhappily very general on the Continent; they are but slowly, if perceptibly, giving way before the advance of reason; and for generations, perhaps, to come, we shall be judged under their influence. Is it requiring too much from our practical politicians to wish that they would sometimes bear these things in mind? Does it answer any good purpose to express ourselves as if

we did not scruple to profess that which we not merely scruple to do, but the bare idea of doing which never crosses our minds? Why should we abnegate the character we might with truth lay claim to, of being incomparably the most conscientious of all nations in our national acts? Of all countries which are sufficiently powerful to be capable of being dangerous to their neighbours, we are perhaps the only one whom mere scruples of conscience would suffice to deter from it. We are the only people among whom, by no class whatever of society, is the interest or glory of the nation considered to be any sufficient excuse for an unjust act; the only one which regards with jealousy and suspicion, and a proneness to hostile criticism, precisely those acts of its Government which in other countries are sure to be hailed with applause, those by which territory has been acquired, or political influence extended. Being in reality better than other nations, in at least the negative part of international morality, let us cease, by the language we use, to give ourselves out as worse.

But if we ought to be careful of our language, a thousand times more obligatory is it upon us to be careful of our deeds, and not suffer ourselves to be betrayed by any of our leading men into a line of conduct on some isolated point, utterly opposed to our habitual principles of action—conduct such that if it were a fair specimen of us, it would verify the calumnies of our worst enemies, and justify them in representing not only that we have no regard for the good of other nations, but that we actually think their good and our own incompatible, and will go all lengths to prevent others from realizing even an advantage in

which we ourselves are to share. This pernicious, and, one can scarcely help calling it, almost insane blunder, we seem to be committing on the subject of the Suez Canal.

It is the universal belief in France that English influence at Constantinople, strenuously exerted to defeat this project, is the real and only invincible obstacle to its being carried into effect. And unhappily the public declarations of our present Prime Minister not only bear out this persuasion, but warrant the assertion that we oppose the work because, in the opinion of our Government, it would be injurious to the interest of England. If such be the course we are pursuing, and such the motive of it, and if nations have duties, even negative ones, towards the weal of the human race, it is hard to say whether the folly or the immorality of our conduct is the most painfully conspicuous.

Here is a project, the practicability of which is indeed a matter in dispute, but of which no one has attempted to deny that, supposing it realized, it would give a facility to commerce, and consequently a stimulus to production, and encouragement to intercourse, and therefore to civilization, which would entitle it to a high rank among the great industrial improvements of modern times. The contriving of new means of abridging labour and economizing outlay in the operations of industry, is the object to which the larger half of all the inventive ingenuity of mankind is at present given up; and this scheme, if realized, will save, on one of the great highways of the world's traffic, the circumnavigation of a continent. An easy access of commerce is the main

source of that material civilization, which, in the more backward regions of the earth, is the necessary condition and indispensable machinery of the moral ; and this scheme reduces practically by one half, the distance, commercially speaking, between the self-improving nations of the world and the most important and valuable of the unimproving. The Atlantic Telegraph is esteemed an enterprise of world-wide importance because it abridges the transit of mercantile intelligence merely. What the Suez Canal would shorten is the transport of the goods themselves, and this to such an extent as probably to augment it manifold.

Let us suppose, then—for in the present day the hypothesis is too un-English to be spoken of as anything more than a supposition—let us suppose that the English nation saw in this great benefit to the civilized and uncivilized world a danger or damage to some peculiar interest of England. Suppose, for example, that it feared, by shortening the road, to facilitate the access of foreign navies to its Oriental possessions. The supposition imputes no ordinary degree of cowardice and imbecility to the national mind ; otherwise it could not but reflect that the same thing which would facilitate the arrival of an enemy, would facilitate also that of succour ; that we have had French fleets in the Eastern seas before now, and have fought naval battles with them there, nearly a century ago ; that if we ever became unable to defend India against them, we should assuredly have them there without the aid of any canal ; and that our power of resisting an enemy does not depend upon putting a little more or less of obstacle in the way of

*his coming, but upon the amount of force which we are able to oppose to him when come. Let us assume, however, that the success of the project would do more harm to England in some separate capacity, than the good which, as the chief commercial nation, she would reap from the great increase of commercial intercourse. Let us grant this: and I now ask, what then? Is there any morality, Christian or secular, which bears out a nation in keeping all the rest of mankind out of some great advantage, because the consequences of their obtaining it may be to itself, in some imaginable contingency, a cause of inconvenience? Is a nation at liberty to adopt as a practical maxim, that what is good for the human race is bad for itself, and to withstand it accordingly? What is this but to declare that its interest and that of mankind are incompatible—that, thus far at least, it is the enemy of the human race? And what ground has it of complaint if, in return, the human race determine to be *its* enemies? So wicked a principle, avowed and acted on by a nation, would entitle the rest of the world to unite in a league against it, and never to make peace until they had, if not reduced it to insignificance, at least sufficiently broken its power to disable it from ever again placing its own self-interest before the general prosperity of mankind.*

There is no such base feeling in the British people. They are accustomed to see their advantage in forwarding, not in keeping back, the growth in wealth and civilization of the world. The opposition to the Suez Canal has never been a national opposition. With their usual indifference to foreign affairs, the public in general have not thought about it, but have

left it, as (unless when particularly excited) they leave all the management of their foreign policy, to those who, from causes and reasons connected only with internal politics, happen for the time to be in office. Whatever has been done in the name of England in the Suez affair has been the act of individuals; mainly, it is probable, of one individual; scarcely any of his countrymen either prompting or sharing his purpose, and most of those who have paid any attention to the subject (unfortunately a very small number) being, to all appearance, opposed to him.

But (it is said) the scheme cannot be executed. If so, why concern ourselves about it? If the project can come to nothing, why profess gratuitous immorality and incur gratuitous odium to prevent it from being tried? Whether it will succeed or fail is a consideration totally irrelevant; except thus far, that if it is sure to fail, there is in our resistance to it the same immorality, and an additional amount of folly; since, on that supposition, we are parading to the world a belief that our interest is inconsistent with its good, while if the failure of the project would really be any benefit to us, we are certain of obtaining that benefit by merely holding our peace.

As a matter of private opinion, the present writer, so far as he has looked into the evidence, inclines to agree with those who think that the scheme cannot be executed, at least by the means and with the funds proposed. But this is a consideration for the shareholders. The British Government does not deem it any part of its business to prevent individuals, even British citizens, from wasting their own money in unsuccessful speculations, though holding out no

prospect of great public usefulness in the event of success. And if, though at the cost of their own property, they acted as pioneers to others, and the scheme, though a losing one to those who first undertook it, should, in the same or in other hands, realize the full expected amount of ultimate benefit to the world at large, it would not be the first nor the hundredth time that an unprofitable enterprise has had this for its final result.

There seems to be no little need that the whole doctrine of non-interference with foreign nations should be reconsidered, if it can be said to have as yet been considered as a really moral question at all. We have heard something lately about being willing to go to war for an idea. To go to war for an idea, if the war is aggressive, not defensive, is as criminal as to go to war for territory or revenue ; for it is as little justifiable to force our ideas on other people, as to compel them to submit to our will in any other respect. But there assuredly are cases in which it is allowable to go to war, without having been ourselves attacked, or threatened with attack ; and it is very important that nations should make up their minds in time, as to what these cases are. There are few questions which more require to be taken in hand by ethical and political philosophers, with a view to establish some rule or criterion whereby the justifiableness of intervening in the affairs of other countries, and (what is sometimes fully as questionable) the justifiableness of refraining from intervention, may be brought to a definite and rational test. Whoever attempts this, will be led to recognise more than one fundamental

distinction, not yet by any means familiar to the public mind, and in general quite lost sight of by those who write in strains of indignant morality on the subject. There is a great difference (for example) between the case in which the nations concerned are of the same, or something like the same, degree of civilization, and that in which one of the parties to the situation is of a high, and the other of a very low, grade of social improvement. To suppose that the same international customs, and the same rules of international morality, can obtain between one civilized nation and another, and between civilized nations and barbarians, is a grave error, and one which no statesman can fall into, however it may be with those who, from a safe and irresponsible position, criticise statesmen. Among many reasons why the same rules cannot be applicable to situations so different, the two following are among the most important. In the first place, the rules of ordinary international morality imply reciprocity. But barbarians will not reciprocate. They cannot be depended on for observing any rules. Their minds are not capable of so great an effort, nor their will sufficiently under the influence of distant motives. In the next place, nations which are still barbarous have not got beyond the period during which it is likely to be for their benefit that they should be conquered and held in subjection by foreigners. Independence and nationality, so essential to the due growth and development of a people further advanced in improvement, are generally impediments to theirs. The sacred duties which civilized nations owe to the independence and nationality of each other, are not

binding towards those to whom nationality and independence are either a certain evil, or at best a questionable good. The Romans were not the most clean-handed of conquerors, yet would it have been better for Gaul and Spain, Numidia and Dacia, never to have formed part of the Roman Empire? To characterize any conduct whatever towards a barbarous people as a violation of the law of nations, only shows that he who so speaks has never considered the subject. A violation of great principles of morality it may easily be; but barbarians have no rights as a *nation*, except a right to such treatment as may, at the earliest possible period, fit them for becoming one. The only moral laws for the relation between a civilized and a barbarous government, are the universal rules of morality between man and man.

The criticisms, therefore, which are so often made upon the conduct of the French in Algeria, or of the English in India, proceed, it would seem, mostly on a wrong principle. The true standard by which to judge their proceedings never having been laid down, they escape such comment and censure as might really have an improving effect, while they are tried by a standard which can have no influence on those practically engaged in such transactions, knowing as they do that it cannot, and if it could, ought not to be observed, because no human being would be the better, and many much the worse, for its observance. A civilized government cannot help having barbarous neighbours: when it has, it cannot always content itself with a defensive position, one of mere resistance to aggression. After a longer or shorter interval of forbearance, it either finds itself obliged to conquer

them, or to assert so much authority over them, and so break their spirit, that they gradually sink into a state of dependence upon itself: and when that time arrives, they are indeed no longer formidable to it, but it has had so much to do with setting up and pulling down their governments, and they have grown so accustomed to lean on it, that it has become morally responsible for all evil it allows them to do. This is the history of the relations of the British Government with the native States of India. It never was secure in its own Indian possessions until it had reduced the military power of those States to a nullity. But a despotic government only exists by its military power. When we had taken away theirs, we were forced, by the necessity of the case, to offer them ours instead of it. To enable them to dispense with large armies of their own, we bound ourselves to place at their disposal, and they bound themselves to receive, such an amount of military force as made us in fact masters of the country. We engaged that this force should fulfil the purposes of a force, by defending the prince against all foreign and internal enemies. But being thus assured of the protection of a civilized power, and freed from the fear of internal rebellion or foreign conquest, the only checks which either restrain the passions or keep any vigour in the character of an Asiatic despot, the native Governments either became so oppressive and extortionate as to desolate the country, or fell into such a state of nerveless imbecility, that every one, subject to their will, who had not the means of defending himself by his own armed followers, was the prey of anybody who had a band of ruffians in his pay. The British Government felt

this deplorable state of things to be its own work; *being the direct consequence of the position in which,* for its own security, it had placed itself towards the native governments. Had it permitted this to go on indefinitely, it would have deserved to be accounted among the worst political malefactors. In some cases (unhappily not in all) it had endeavoured to take precaution against these mischiefs by a special article in the treaty, binding the prince to reform his administration, and in future to govern in conformity to the advice of the British Government. Among the treaties in which a provision of this sort had been inserted, was that with Oude. For fifty years and more did the British Government allow this engagement to be treated with entire disregard; not without frequent remonstrances, and occasionally threats, but without ever carrying into effect what it threatened. During this period of half a century, England was morally accountable for a mixture of tyranny and anarchy, the picture of which, by men who knew it well, is appalling to all who read it. The act by which the Government of British India at last set aside treaties which had been so pertinaciously violated, and assumed the power of fulfilling the obligation it had so long before incurred, of giving to the people of Oude a tolerable government, far from being the political crime it is so often ignorantly called, was a criminally tardy discharge of an imperative duty. And the fact, that nothing which had been done in all this century by the East India Company's Government made it so unpopular in England, is one of the most striking instances of what was noticed in a former part of this article—the predisposition of English

public opinion to look unfavourably upon every act by which territory or revenue are acquired from *foreign States, and to take part with any government, however unworthy, which can make out the merest semblance of a case of injustice against our own country.*

But among civilized peoples, members of an equal community of nations, like Christian Europe, the question assumes another aspect, and must be decided on totally different principles. It would be an affront to the reader to discuss the immorality of wars of conquest, or of conquest even as the consequence of lawful war; the annexation of any civilized people to the dominion of another, unless by their own spontaneous election. Up to this point, there is no difference of opinion among honest people; nor on the wickedness of commencing an aggressive war for any interest of our own, except when necessary to avert from ourselves an obviously impending wrong. The disputed question is that of interfering in the regulation of another country's internal concerns; the question whether a nation is justified in taking part, on either side, in the civil wars or party contests of another; and chiefly, whether it may justifiably aid the people of another country in struggling for liberty; or may impose on a country any particular government or institutions, either as being best for the country itself, or as necessary for the security of its neighbours.

Of these cases, that of a people in arms for liberty is the only one of any nicety, or which, theoretically at least, is likely to present conflicting moral considerations. The other cases which have been men-

tioned hardly admit of discussion. Assistance to the government of a country in keeping down the people, unhappily by far the most frequent case of foreign intervention, no one writing in a free country needs take the trouble of stigmatizing. A government which needs foreign support to enforce obedience from its own citizens, is one which ought not to exist; and the assistance given to it by foreigners is hardly ever anything but the sympathy of one despotism with another. A case requiring consideration is that of a protracted civil war, in which the contending parties are so equally balanced that there is no probability of a speedy issue; or if there is, the victorious side cannot hope to keep down the vanquished but by severities repugnant to humanity, and injurious to the permanent welfare of the country. In this exceptional case it seems now to be an admitted doctrine, that the neighbouring nations, or one powerful neighbour with the acquiescence of the rest, are warranted in demanding that the contest shall cease, and a reconciliation take place on equitable terms of compromise. Intervention of this description has been repeatedly practised during the present generation, with such general approval, that its legitimacy may be considered to have passed into a maxim of what is called international law. The interference of the European Powers between Greece and Turkey, and between Turkey and Egypt, were cases in point. That between Holland and Belgium was still more so. The intervention of England in Portugal, a few years ago, which is probably less remembered than the others, because it took effect without the employment of actual force, belongs to the same category. At the

time, this interposition had the appearance of a bad and dishonest backing of the government against the people, being so timed as to hit the exact moment when the popular party had obtained a marked advantage, and seemed on the eve of overthrowing the government, or reducing it to terms. But if ever a political act which looked ill in the commencement could be justified by the event, this was; for, as the fact turned out, instead of giving ascendancy to a party, it proved a really healing measure; and the chiefs of the so-called rebellion were, within a few years, the honoured and successful ministers of the throne against which they had so lately fought.

With respect to the question, whether one country is justified in helping the people of another in a struggle against their government for free institutions, the answer will be different, according as the yoke which the people are attempting to throw off is that of a purely native government, or of foreigners; considering as one of foreigners, every government which maintains itself by foreign support. When the contest is only with native rulers, and with such native strength as those rulers can enlist in their defence, the answer I should give to the question of the legitimacy of intervention is, as a general rule, No. The reason is, that there can seldom be anything approaching to assurance that intervention, even if successful, would be for the good of the people themselves. The only test possessing any real value, of a people's having become fit for popular institutions, is that they, or a sufficient portion of them to prevail in the contest, are willing to brave labour and danger for their liberation. I know all that may be said. I

know it may be urged that the virtues of freemen cannot be learnt in the school of slavery, and that if a people are not fit for freedom, to have any chance of becoming so they must first be free. And this would be conclusive, if the intervention recommended would really give them freedom. But the evil is, that if they have not sufficient love of liberty to be able to wrest it from merely domestic oppressors, the liberty which is bestowed on them by other hands than their own, will have nothing real, nothing permanent. No people ever was and remained free, but because it was determined to be so; because neither its rulers nor any other party in the nation could compel it to be otherwise. If a people—especially one whose freedom has not yet become prescriptive—does not value it sufficiently to fight for it, and maintain it against any force which can be mustered *within* the country, even by those who have the command of the public revenue, it is only a question in how few years or months that people will be enslaved. Either the government which it has given to itself, or some military leader or knot of conspirators who contrive to subvert the government, will speedily put an end to all popular institutions: unless indeed it suits their convenience better to leave them standing, and be content with reducing them to mere forms; for, unless the spirit of liberty is strong in a people, those who have the executive in their hands easily work any institutions to the purposes of despotism. There is no sure guarantee against this deplorable issue, even in a country which has achieved its own freedom; as may be seen in the present day by striking examples both in the Old and New Worlds: but when freedom has

been achieved *for* them, they have little prospect indeed of escaping this fate. When a people has had the misfortune to be ruled by a government under which the feelings and the virtues needful for maintaining freedom could not develope themselves, it is during an arduous struggle to become free by their own efforts that these feelings and virtues have the best chance of springing up. Men become attached to that which they have long fought for and made sacrifices for; they learn to appreciate that on which their thoughts have been much engaged; and a contest in which many have been called on to devote themselves for their country, is a school in which they learn to value their country's interests above their own.

It can seldom, therefore—I will not go so far as to say never—be either judicious or right, in a country which has a free government, to assist, otherwise than by the moral support of its opinion, the endeavours of another to extort the same blessing from its native rulers. We must except, of course, any case in which such assistance is a measure of legitimate self-defence. If (a contingency by no means unlikely to occur) this country, on account of its freedom, which is a standing reproach to despotism everywhere, and an encouragement to throw it off, should find itself menaced with attack by a coalition of Continental despots, it ought to consider the popular party in every nation of the Continent as its natural ally: the Liberals should be to it, what the Protestants of Europe were to the Government of Queen Elizabeth. So, again, when a nation, in her own defence, has gone to war with a despot, and has had the rare good fortune not only

to succeed in her resistance, but to hold the conditions of peace in her own hands, she is entitled to say that she will make no treaty, unless with some other ruler than the one whose existence as such may be a perpetual menace to her safety and freedom. These exceptions do but set in a clearer light the reasons of the rule; because they do not depend on any failure of those reasons, but on considerations paramount to them, and coming under a different principle.

But the case of a people struggling against a foreign yoke, or against a native tyranny upheld by foreign arms, illustrates the reasons for non-intervention in an opposite way; for in this case the reasons themselves do not exist. A people the most attached to freedom, the most capable of defending and of making a good use of free institutions, may be unable to contend successfully for them against the military strength of another nation much more powerful. To assist a people thus kept down, is not to disturb the balance of forces on which the permanent maintenance of freedom in a country depends, but to redress that balance when it is already unfairly and violently disturbed. The doctrine of non-intervention, to be a legitimate principle of morality, must be accepted by all governments. The despots must consent to be bound by it as well as the free States. Unless they do, the profession of it by free countries comes but to this miserable issue, that the wrong side may help the wrong, but the right must not help the right. Intervention to enforce non-intervention is always rightful, always moral, if not always prudent. Though it be a mistake to *give* freedom to a people who do not value the boon, it cannot but be right to

insist that if they do, value it, they shall not be hindered from the pursuit of it by foreign coercion. It might not have been right for England (even apart from the question of prudence) to have taken part with Hungary in its noble struggle against Austria; although the Austrian Government in Hungary was in some sense a foreign yoke. But when, the Hungarians having shown themselves likely to prevail in this struggle, the Russian despot interposed, and joining his force to that of Austria, delivered back the Hungarians, bound hand and foot, to their exasperated oppressors, it would have been an honourable and virtuous act on the part of England to have declared that this should not be, and that if Russia gave assistance to the wrong side, England would aid the right. It might not have been consistent with the regard which every nation is bound to pay to its own safety, for England to have taken up this position single-handed. But England and France together could have done it; and if they had, the Russian armed intervention would never have taken place, or would have been disastrous to Russia alone: while all that those Powers gained by not doing it, was that they had to fight Russia five years afterwards, under more difficult circumstances, and without Hungary for an ally. The first nation which, being powerful enough to make its voice effectual, has the spirit and courage to say that not a gun shall be fired in Europe by the soldiers of one Power against the revolted subjects of another, will be the idol of the friends of freedom throughout Europe. That declaration alone will ensure the almost immediate emancipation of every people which desires liberty sufficiently to be

capable of maintaining it: and the nation which gives the word will soon find itself at the head of an alliance of free peoples, so strong as to defy the efforts of any number of confederated despots to bring it down. The prize is too glorious not to be snatched sooner or later by some free country; and the time may not be distant when England, if she does not take this heroic part because of its heroism, will be compelled to take it from consideration for her own safety.

THE CONTEST IN AMERICA.

THE cloud which for the space of a month hung gloomily over the civilized world, black with far worse evils than those of simple war, has passed from over our heads without bursting. The fear has not been realized, that the only two first-rate Powers who are also free nations would take to tearing each other in pieces, both the one and the other in a bad and odious cause. For while, on the American side, the war would have been one of reckless persistency in wrong, on ours it would have been a war in alliance with, and, to practical purposes, in defence and propagation of, slavery. We had, indeed, been wronged. We had suffered an indignity, and something more than an indignity, which not to have resented, would have been to invite a constant succession of insults and injuries from the same and from every other quarter. We could have acted no other-wise than we have done: yet it is impossible to think, without something like a shudder, from what we have escaped. We, the emancipators of the slave—who have wearied every Court and Government in Europe and America with our protests and remonstrances, until we goaded them into at least ostensibly co-operating with us to prevent the enslaving of the negro—we, who for the last half-century have spent annual sums equal to the revenue of a small king-

dom in blockading the African coast, for a cause in which we not only had no interest, but which was contrary to our pecuniary interest, and which many believed would ruin, as many among us still, though erroneously; believe that it has ruined, our colonies,—*we* should have lent a hand to setting up, in one of the most commanding positions of the world, a powerful republic, devoted not only to slavery, but to pro-slavery propagandism—should have helped to give a place in the community of nations to a conspiracy of slave-owners, who have broken their connexion with the American Federation on the sole ground, ostentatiously proclaimed, that they thought an attempt would be made to restrain, not slavery itself, but their purpose of spreading slavery wherever migration or force could carry it.

A nation which has made the professions that England has made, does not with impunity, under however great provocation, betake itself to frustrating the objects for which it has been calling on the rest of the world to make sacrifices of what they think their interest. At present all the nations of Europe have sympathized with us; have acknowledged that we were injured, and declared, with rare unanimity, that we had no choice but to resist, if necessary by arms. But the consequences of such a war would soon have buried its causes in oblivion. When the new Confederate States, made an independent Power by English help, had begun their crusade to carry negro slavery from the Pctomac to Cape Horn, who would then have remembered that England raised up this scourge to humanity not for the evil's sake, but because somebody had offered an insult to her flag?

Or, even if forgotten, who would then have felt that such a grievance was a sufficient palliation of the crime? Every reader of a newspaper to the furthest ends of the earth, would have believed and remembered one thing only: that at the critical juncture which was to decide whether slavery should blaze up afresh with increased vigour, or be trodden out—at the moment of conflict between the good and the evil spirit—at the dawn of a hope that the demon might now at last be chained and flung into the pit, England stepped in, and, for the sake of cotton, made Satan victorious.

The world has been saved from this calamity, and England from this disgrace. The accusation would indeed have been a calumny. But to be able to defy calumny, a nation, like an individual, must stand very clear of just reproach in its previous conduct. Unfortunately, we ourselves have given too much plausibility to the charge: not by anything said or done by us as a Government or as a nation, but by the tone of our press, and in some degree, it must be owned, the general opinion of English society. It is too true, that the feelings which have been manifested since the beginning of the American contest—the judgments which have been put forth, and the wishes which have been expressed, concerning the incidents and probable eventualities of the struggle—the bitter and irritating criticism which has been kept up, not even against both parties equally, but almost solely against the party in the right, and the ungenerous refusal of all those just allowances, which no country needs more than our own, whenever its circumstances are as near to those of America at the present moment as a cut finger is to

an almost mortal wound,—these facts, with minds not favourably disposed to us, would have gone far to make the most odious interpretation of the war in which we have been so nearly engaged with the United States, appear by many degrees the most probable. There is no denying that our attitude towards the contending parties (I mean our moral attitude, for politically there was no other course open to us than neutrality) has not been that which becomes a people who are as sincere enemies of slavery as the English really are, and have made as great sacrifices to put an end to it where they could. And it has been an additional misfortune, that some of our most powerful journals have been, for many years past, very unfavourable exponents of English feeling on all subjects connected with slavery: some, probably, from the influences, more or less direct, of West Indian opinions and interests: others from inbred Toryism, which, even when compelled by reason to hold opinions favourable to liberty, is always adverse to it in feeling; which likes the spectacle of irresponsible power exercised by one person over others; which has no moral repugnance to the thought of human beings born to the penal servitude for life, to which for the term of a few years we sentence our most hardened criminals, but keeps its indignation to be expended on ‘rabid and fanatical abolitionists’ across the Atlantic, and on those writers in England who attach a sufficiently serious meaning to their Christian professions, to consider a fight against slavery as a fight for God.

Now that the mind of England, and it may almost be said, of the civilized part of mankind, has been relieved from the incubus which had weighed

on it ever since the *Trent* outrage, and when we are no longer feeling towards the Northern Americans as men feel towards those with whom they may be on the point of struggling for life or death; now, if ever, is the time to review our position, and consider whether we have been feeling what ought to have been felt, and wishing what ought to have been wished, regarding the contest in which the Northern States are engaged with the South.

In considering this matter, we ought to dismiss from our minds as far as possible those feelings against the North, which have been engendered not merely by the *Trent* aggression, but by the previous anti-British effusions of newspaper writers and stump orators. It is hardly worth while to ask how far these explosions of ill-humour are anything more than might have been anticipated from ill-disciplined minds, disappointed of the sympathy which they justly thought they had a right to expect from the great anti-slavery people, in their really noble enterprise. It is almost superfluous to remark that a democratic government always shows worst, where other governments generally show best, on its outside; that unreasonable people are much more noisy than the reasonable; that the froth and scum are the part of a violently fermenting liquid that meets the eyes, but are not its body and substance.* Without insisting on these things, I contend, that all previous cause of offence should be considered as cancelled, by the reparation which the American Government has so amply made; not so much the reparation itself, which might have been so made as to leave still greater cause of permanent resentment behind it;

but the manner and spirit in which they have made it. These have been such as most of us, I venture to say, did not by any means expect. If reparation were made at all, of which few of us felt more than a hope, we thought that it would have been made obviously as a concession to prudence, not to principle. We thought that there would have been truckling to the newspaper editors and supposed fire-eaters who were crying out for retaining the prisoners at all hazards. We expected that the atonement, if atonement there were, would have been made with reservations, perhaps under protest. We expected that the correspondence would have been spun out, and a trial made to induce England to be satisfied with less ; or that there would have been a proposal of arbitration ; or that England would have been asked to make concessions in return for justice ; or that if submission was made, it would have been made, ostensibly, to the opinions and wishes of Continental Europe. We expected anything, in short, which would have been weak, and timid, and paltry. The only thing which no one seemed to expect, is what has actually happened. Mr. Lincoln's Government have done none of these things. Like honest men, they have said in direct terms, that our demand was right ; that they yielded to it because it was just ; that if they themselves had received the same treatment, they would have demanded the same reparation ; and that if what seemed to be the American side of a question was not the just side, they would be on the side of justice ; happy as they were to find, after their resolution had been taken, that it was also the side which America had formerly defended. Is there any one,

capable of a moral judgment or feeling, who will say that his opinion of America and American statesmen is not raised by such an act, done on such grounds? The act itself may have been imposed by the necessity of the circumstances; but the reasons given, the principles of action professed, were their own choice. Putting the worst hypothesis possible, which it would be the height of injustice to entertain seriously, that the concession was really made solely to convenience, and that the profession of regard for justice was hypocrisy: even so, the ground taken, even if insincerely, is the most hopeful sign of the moral state of the American mind which has appeared for many years. That a sense of justice should be the motive which the rulers of a country rely on, to reconcile the public to an unpopular, and what might seem a humiliating act; that the journalists, the orators, many lawyers, the Lower House of Congress, and Mr. Lincoln's own naval secretary, should be told in the face of the world, by their own Government, that they have been giving public thanks, presents of swords, freedom of cities, all manner of heroic honours to the author of an act which, though not so intended, was lawless and wrong, and for which the proper remedy is confession and atonement; that this should be the accepted policy (supposing it to be nothing higher) of a Democratic Republic, shows even unlimited democracy to be a better thing than many Englishmen have lately been in the habit of considering it, and goes some way towards proving that the aberrations even of a ruling multitude are only fatal when the better instructed have not the virtue or the courage to front them boldly. Nor

ought it to be forgotten, to the honour of Mr. Lincoln's Government, that in doing what was in itself right, they have done also what was best fitted to allay the animosity which was daily becoming more bitter between the two nations so long as the question remained open. They have put the brand of confessed injustice upon that rankling and vindictive resentment, with which the profligate and passionate part of the American press has been threatening us in the event of concession, and which is to be manifested by some dire revenge, to be taken, as they pretend, after the nation is extricated from its present difficulties. Mr. Lincoln has done what depended on him to make this spirit expire with the occasion which raised it up; and we shall have ourselves chiefly to blame if we keep it alive by the further prolongation of that stream of vituperative eloquence, the source of which, even now, when the cause of quarrel has been amiably made up, does not seem to have run dry.*

Let us, then, without reference to these jars, or to the declamations of newspaper writers on either side of the Atlantic, examine the American question as it stood from the beginning; its origin, the purpose of

I do not forget one regrettable passage in Mr. Seward's letter, in which he said that 'if the safety of the Union required the detention of the captured persons, it would be the right and duty of this Government to detain them.' I sincerely grieve to find this sentence in the despatch, for the exceptions to the general rules of morality are not a subject to be lightly or unnecessarily tampered with. The doctrine in itself is no other than that professed and acted on by all governments—that self-preservation, in a State, as in an individual, is a warrant for many things which at all other times ought to be rigidly abstained from. At all events, no nation which has ever passed 'laws of exception,' which ever suspended the Habeas Corpus Act or passed an Alien Bill in dread of a Chartist insurrection, has a right to throw the first stone at Mr. Lincoln's Government.

both the combatants, and its various possible or probable issues.

There is a theory in England, believed perhaps by some, half believed by many more, which is only consistent with original ignorance, or complete subsequent forgetfulness, of all the antecedents of the contest. There are people who tell us that, on the side of the North, the question is not one of Slavery at all. The North, it seems, have no more objection to Slavery than the South have. Their leaders never say one word implying disapprobation of it. They are ready, on the contrary, to give it new guarantees; to renounce all that they have been contending for; to win back, if opportunity offers, the South, to the Union, by surrendering the whole point.

If this be the true state of the case, what are the Southern chiefs fighting about? Their apologists in England say that it is about tariffs, and similar trumpery. *They* say nothing of the kind. They tell the world, and they told their own citizens when they wanted their votes, that the object of the fight was slavery. Many years ago, when General Jackson was President, South Carolina did nearly rebel (she never was near separating) about a tariff; but no other State abetted her, and a strong adverse demonstration from Virginia brought the matter to a close. Yet the tariff of that day was rigidly protective. Compared with that, the one in force at the time of the secession was a free-trade tariff. This latter was the result of several successive modifications in the direction of freedom; and its principle was not protection for protection, but as much of it only as might incidentally result from duties imposed for revenue. Even the

Morrill Tariff (which never could have been passed but for the Southern secession) is stated by the unimpeachable authority of Mr. H. C. Carey to be considerably more liberal than the reformed French Tariff under Mr. Cobden's Treaty; insomuch that he, a Protectionist, would be glad to exchange his own protective tariff for Louis Napoleon's free-trade one. But why discuss on probable evidence, notorious facts? The world knows what the question between the North and South has been for many years, and still is. Slavery alone was thought of, alone talked of. Slavery was battled for and against, on the floor of Congress and in the plains of Kansas: on the Slavery question exclusively was the party constituted which now rules the United States: on slavery Fremont was rejected, on slavery Lincoln was elected; the South separated on slavery, and proclaimed slavery as the one cause of separation.

It is true enough that the North are not carrying on war to abolish slavery in the States where it legally exists. Could it have been expected, or even perhaps desired, that they should? A great party does not change, suddenly and at once, all its principles and professions. The Republican party have taken their stand on law, and the existing Constitution of the Union. They have disclaimed all right to attempt anything which that Constitution forbids. It does forbid interference by the Federal Congress with slavery in the Slave States; but it does not forbid their abolishing it in the district of Columbia; and this they are now doing, having voted, I perceive, in their present pecuniary straits, a million of dollars to indemnify the slave-owners of the district. Neither

did the Constitution, in their own opinion, require them to permit the introduction of slavery into the Territories, which were not yet States. To prevent this, the Republican party was formed, and to prevent it they are now fighting, as the slave-owners are fighting to enforce it.

The present Government of the United States is not an abolitionist government. Abolitionists, in America, mean those who do not keep within the Constitution; who demand the destruction (as far as slavery is concerned) of as much of it as protects the internal legislation of each State from the control of Congress; who aim at abolishing slavery wherever it exists, by force if need be, but certainly by some other power than the constituted authorities of the Slave States.¹ The Republican party neither aim nor pro-

Since the first publication of this paper, I have been honoured with a communication from Mr. Wendell Phillips, supplying some necessary corrections to the view taken above of the principles and purposes of the Abolitionists. My readers will be glad to see those principles and purposes stated in the very words of that eminent man:—

‘1. Though repudiating the obligation of any law upon the citizen who deems it immoral, the Abolitionists have put into that category only the *fugitive slave clause* of the Constitution, and refused to obey that only; a refusal in which very many of the Republicans, and all the highest toned men, in political life and out of it, have joined them. This refusal therefore is no distinction between them and their fellow citizens. The Abolitionists, in many instances, not meaning to obey that clause, refused to take office because in that case obliged to swear to *support* the whole Constitution. Others swore, and still, in this particular point, disobeyed the law.

‘Though seeking to break the Union and end the Constitution, the Abolitionists have always *‘kept within it,’* and been Constitution-and-law-abiding citizens, seeking their ends only by moral and lawful means; what Englishmen call *agitation*.

‘2. During the whole thirty years of their action before the war, the Abolitionists never asked to have State legislation overridden by Congress. Since the war, in common with the whole loyal party, they ask

fess to aim at this object. And when we consider the flood of wrath which would have been poured out against them if they did, by the very writers who now taunt them with not doing it, we shall be apt to think the taunt a little misplaced. But though not an Abolitionist party, they are a Free-soil party. If they have not taken arms against slavery, they have against its extension. And they know, as we may know if we please, that this amounts to the same thing. The day when slavery can no longer extend itself, is the day of its doom. The slave-owners know this, and it is the cause of their fury. They know,

Congress to exercise the *war power* which authorizes interference with the *rebel States* and with the whole subject of slavery everywhere. But that claim constitutes no distinction between them and their loyal fellow citizens.

'3. The Abolitionists have never 'aimed at abolishing slavery by force;' on the contrary they have constantly, by word and deed, repudiated that method. They have addressed themselves always to '*the constituted authorities of the Slave States*,' urging them to act on the subject, and allowing that *they only* had the right to act upon it. The exceptions to this, in their ranks, have been too few to require notice, or to characterize the party. John Brown (who himself repudiated the charge of abolishing slavery by *force*), though held in the highest respect by Abolitionists, did not represent them.

'The Abolitionists were distinguished by these principles:—

'They considered slave-holding to be *sin*—any voluntary participation in, or upholding of it, to be *sin*—any law which authorized or supported it to be *immoral*, and therefore not binding, and not to be obeyed. Thinking the Constitution to contain such a law, many of them refused to take office under it, or swear to support it. They demanded *immediate* and *unconditional* emancipation: thereby differing from gradualists—from those who advocated an apprenticeship system; and from colonizationists, who wished the whole black race exported to Africa, as a condition precedent to emancipation.

'The Abolitionists have from the beginning sought abolition only by lawful and moral means—submitting to every law except that ordering the return of slaves to their masters, and using only the press, the rostrum, politics, and the pulpit, as their means to change that public opinion which is sure to change the law. This has always been their whole and sole reliance.'

as all know who have attended to the subject, that confinement within existing limits is its death-warrant. Slavery, under the conditions in which it exists in the States, exhausts even the beneficent powers of nature. So incompatible is it with any kind whatever of skilled labour, that it causes the whole productive resources of the country to be concentrated on one or two products, cotton being the chief, which require, to raise and prepare them for the market, little besides brute animal force. The cotton cultivation, in the opinion of all competent judges, alone saves North American slavery; but cotton cultivation, exclusively adhered to, exhausts in a moderate number of years all the soils which are fit for it, and can only be kept up by travelling farther and farther westward. Mr. Olmsted has given a vivid description of the desolate state of parts of Georgia and the Carolinas, once among the richest specimens of soil and cultivation in the world; and even the more recently colonized Alabama, as he shows, is rapidly following in the same downhill track. To slavery, therefore, it is a matter of life and death to find fresh fields for the employment of slave labour. Confine it to the present States, and the owners of slave property will either be speedily ruined, or will have to find means of reforming and renovating their agricultural system; which cannot be done without treating the slaves like human beings, nor without so large an employment of skilled, that is, of free labour, as will widely displace the unskilled, and so depreciate the pecuniary value of the slave, that the immediate mitigation and ultimate extinction of slavery would be a nearly inevitable and probably rapid consequence.

The Republican leaders do not talk to the public of

these almost certain results of success in the present conflict. They talk but little, in the existing emergency, even of the original cause of quarrel. The most ordinary policy teaches them to inscribe on their banner that part only of their known principles in which their supporters are unanimous. The preservation of the Union is an object about which the North are agreed; and it has many adherents, as they believe, in the South generally. That nearly half the population of the Border Slave States are in favour of it is a patent fact, since they are now fighting in its defence. It is not probable that they would be willing to fight directly against slavery. The Republicans well know that if they can re-establish the Union, they gain everything for which they originally contended; and it would be a plain breach of faith with the Southern friends of the Government, if, after rallying them round its standard for a purpose of which they approve, it were suddenly to alter its terms of communion without their consent.

But the parties in a protracted civil war almost invariably end by taking more extreme, not to say higher grounds of principle than they began with. Middle parties and friends of compromise are soon left behind; and if the writers who so severely criticise the present moderation of the Free-soilers are desirous to see the war become an abolition war, it is probable that, if the war lasts long enough, they will be gratified. Without the smallest pretension to see further into futurity than other people, I at least have foreseen and foretold from the first, that if the South were not promptly put down, the contest would become distinctly an anti-slavery one; nor do I believe that any person,

accustomed to reflect on the course of human affairs in troubled times, can expect anything else. Those who have read, even cursorily, the most valuable testimony to which the English public have access, concerning the real state of affairs in America,—the letters of the *Times* correspondent, Mr. Russell—must have observed how early and rapidly he arrived at the same conclusion, and with what increasing emphasis he now continually reiterates it. In one of his recent letters he names the end of next summer as the period by which, if the war has not sooner terminated, it will have assumed a complete anti-slavery character. So early a term exceeds, I confess, my most sanguine hopes; but if Mr. Russell be right, Heaven, forbid that the war should cease sooner, for if it lasts till then it is quite possible that it will regenerate the American people.

If, however, the purposes of the North may be doubted or misunderstood, there is at least no question as to those of the South. They make no concealment of *their* principles. As long as they were allowed to direct all the policy of the Union; to break through compromise after compromise, encroach step after step, until they reached the pitch of claiming a right to carry slave property into the Free States, and, in opposition to the laws of those States, hold it as property there; so long, they were willing to remain in the Union. The moment a President was elected of whom it was inferred from his opinions, not that he would take any measures against slavery where it exists, but that he would oppose its establishment where it exists not,—that moment they broke loose from what was, at least, a very solemn contract, and formed themselves

into a Confederation professing as its fundamental principle not merely the perpetuation, but the indefinite extension of slavery. And the doctrine is loudly preached through the new Republic, that slavery, whether black or white, is a good in itself, and is the proper condition of the working classes everywhere.

Let me, in a few words, remind the reader what sort of a thing this is, which the white oligarchy of the South have banded themselves together to propagate, and establish, if they could, universally. When it is wished to describe any portion of the human race as in the lowest state of debasement, and under the most cruel oppression, in which it is possible for human beings to live, they are compared to slaves. When words are sought by which to stigmatize the most odious despotism, exercised in the most odious manner, and all other comparisons are found inadequate, the despots are said to be like slave-masters, or slave-drivers. What, by a rhetorical licence, the worst oppressors of the human race, by way of stamping on them the most hateful character possible, are said to be, these men, in very truth, are. I do not mean that all of them are hateful personally, any more than all the inquisitors, or all the buccancers. But the position which they occupy, and of which they are in arms to vindicate the abstract excellence, is that which the united voice of mankind habitually selects as the type of all hateful qualities. I will not bandy chicanery about the more or less of stripes or other torments which are daily requisite to keep the machine in working order, nor discuss whether the Legrees or the St. Clairs are more numerous among the slave-owners of the Southern States. The broad facts of the case suffice.

One fact is enough. There are, Heaven knows, vicious and tyrannical institutions in ample abundance on the earth. But this institution is the only one of them all which requires, to keep it going, that human beings should be burnt alive. The calm and dispassionate Mr. Olmsted affirms that there has not been a single year, for many years past, in which this horror is not known to have been perpetrated in some part or other of the South. And not upon negroes only; the *Edinburgh Review*, in a recent number, gave the hideous details of the burning alive of an unfortunate Northern huckster by Lynch law, on mere suspicion of having aided in the escape of a slave. What must American slavery be, if deeds like these are necessary under it? and if they are not necessary, and are yet done, is not the evidence against slavery still more damning? The South are in rebellion not for simple slavery; they are in rebellion for the right of burning human creatures alive.

But we are told, by a strange misapplication of a true principle, that the South had a *right* to separate; that their separation ought to have been consented to, the moment they showed themselves ready to fight for it; and that the North, in resisting it, are committing the same error and wrong which England committed in opposing the original separation of the thirteen colonies. This is carrying the doctrine of the sacred right of insurrection rather far. It is wonderful how easy, and liberal, and complying, people can be in other people's concerns. Because they are willing to surrender their own past, and have no objection to join in reprobation of their great-grandfathers, they never put to themselves the question what they themselves

would do in circumstances far less trying, under far less pressure of real national calamity. Would those who profess these ardent revolutionary principles consent to their being applied to Ireland, or India, or the Ionian Islands? How have they treated those who did attempt so to apply them? But the case can dispense with any mere *argumentum ad hominem*. I am not frightened at the word rebellion. I do not scruple to say that I have sympathized more or less ardently with most of the rebellions, successful and unsuccessful, which have taken place in my time. But I certainly never conceived that there was a sufficient title to my sympathy in the mere fact of being a rebel; that the act of taking arms against one's fellow citizens was so meritorious in itself, was so completely its own justification, that no question need be asked concerning the motive. It seems to me a strange doctrine that the most serious and responsible of all human acts imposes no obligation on those who do it, of showing that they have a real grievance; that those who rebel for the power of oppressing others, exercise as sacred a right as those who do the same thing to resist oppression practised upon themselves. Neither rebellion, nor any other act which affects the interests of others, is sufficiently legitimated by the mere will to do it. Secession may be laudable, and so may any other kind of insurrection; but it may also be an enormous crime. It is the one or the other, according to the object and the provocation. And if there ever was an object which, by its bare announcement, stamped rebels against a particular community as enemies of mankind, it is the one professed by the South. Their right to separate is the right which

Cartouche or Turpin would have had to secede from their respective countries, because the laws of those countries would not suffer them to rob and murder on the highway. The only real difference is, that the present rebels are more powerful than Cartouche or Turpin, and may possibly be able to effect their iniquitous purpose.

Suppose, however, for the sake of argument, that the mere will to separate were in this case, or in any case, a sufficient ground for separation, I beg to be informed *whose* will? The will of any knot of men who, by fair means or foul, by usurpation, terrorism, or fraud, have got the reins of government into their hands? If the inmates of Parkhurst Prison were to get possession of the Isle of Wight, occupy its military positions, enlist one part of its inhabitants in their own ranks, set the remainder of them to work in chain gangs, and declare themselves independent, ought their recognition by the British Government to be an immediate consequence? Before admitting the authority of any persons, as organs of the will of the people, to dispose of the whole political existence of a country, I ask to see whether their credentials are from the whole, or only from a part. And first, it is necessary to ask, Have the slaves been consulted? Has *their* will been counted as any part in the estimate of collective volition? They are a part of the population. However natural in the country itself, it is rather cool in English writers who talk so glibly of the ten millions (I believe there are only eight), to pass over the very existence of four millions who must abhor the idea of separation. Remember, *we* consider them to be human beings, entitled to human rights.

Nor can it be doubted that the mere fact of belonging to a Union in some parts of which slavery is reprobated, is some alleviation of their condition, if only as regards future probabilities. But even of the white population, it is questionable if there was in the beginning a majority for secession anywhere but in South Carolina. Though the thing was pre-determined, and most of the States committed by their public authorities before the people were called on to vote; though in taking the votes terrorism in many places reigned triumphant; yet even so, in several of the States, secession was carried only by narrow majorities. In some the authorities have not dared to publish the numbers; in some it is asserted that no vote has ever been taken. Further (as was pointed out in an admirable letter by Mr. Carey), the Slave States are intersected in the middle, from their northern frontier almost to the Gulf of Mexico, by a country of free labour—the mountain region of the Alleghanies and their dependencies, forming parts of Virginia, North Carolina, Tennessee, Georgia, and Alabama, in which, from the nature of the climate and of the agricultural and mining industry, slavery to any material extent never did, and never will, exist. This mountain zone is peopled by ardent friends of the Union. Could the Union abandon them, without even an effort, to be dealt with at the pleasure of an exasperated slave-owning oligarchy? Could it abandon the Germans who, in Western Texas, have made so meritorious a commencement of growing cotton on the borders of the Mexican Gulf by free labour? Were the right of the slave-owners to secede ever so clear, they have no right to carry

these with them ; unless allegiance is a mere question of local proximity, and my next neighbour, if I am a stronger man, can be compelled to follow me in any lawless vagaries I choose to indulge.

But (it is said) the North will never succeed in conquering the South ; and since the separation must in the end be recognised, it is better to do at first what must be done at last ; moreover, if it did conquer them, it could not govern them when conquered, consistently with free institutions. With no one of these propositions can I agree.

Whether or not the Northern Americans *will* succeed in reconquering the South, I do not affect to foresee. That they *can* conquer it, if their present determination holds, I have never entertained a doubt ; for they are twice as numerous, and ten or twelve times as rich. Not by taking military possession of their country, or marching an army through it, but by wearing them out, exhausting their resources, depriving them of the comforts of life, encouraging their slaves to desert, and excluding them from communication with foreign countries. All this, of course, depends on the supposition that the North does not give in first. Whether they will persevere to this point, or whether their spirit, their patience, and the sacrifices they are willing to make, will be exhausted before reaching it, I cannot tell. They may, in the end, be wearied into recognising the separation. But to those who say that because this may have to be done at last, it ought to have been done at first, I put the very serious question—On what terms? Have they ever considered what would have been the meaning of separation if it had been

assented to by the Northern States when first demanded? People talk as if separation meant nothing more than the independence of the seceding States. To have accepted it under that limitation would have been, on the part of the South, to give up that which they have seceded expressly to preserve. Separation, with them, means at least half the Territories; including the Mexican border, and the consequent power of invading and overrunning Spanish America for the purpose of planting there the 'peculiar institution' which even Mexican civilization has found too bad to be endured. There is no knowing to what point of degradation a country may be driven in a desperate state of its affairs; but if the North *ever*, unless on the brink of actual ruin, makes peace with the South, giving up the original cause of quarrel, the freedom of the Territories; if it resigns to them when out of the Union that power of evil which it would not grant to retain them in the Union—it will incur the pity and disdain of posterity. And no one can suppose that the South would have consented, or in their present temper ever will consent, to an accommodation on any other terms. It will require a succession of humiliations to bring them to that. The necessity of reconciling themselves to the confinement of slavery within its existing boundaries, with the natural consequence, immediate mitigation of slavery, and ultimate emancipation, is a lesson which they are in no mood to learn from anything but disaster. Two or three defeats in the field, breaking their military strength, though not followed by an invasion of their territory, may possibly teach it to them. If so, there is no breach of charity in hoping that this severe

schooling may promptly come. When men set themselves up, in defiance of the rest of the world, to do the devil's work, no good can come of them until the world has made them feel that this work cannot be suffered to be done any longer. If this knowledge does not come to them for several years, the abolition question will by that time have settled itself. For assuredly Congress will very soon make up its mind to declare all slaves free who belong to persons in arms against the Union. When that is done, slavery, confined to a minority, will soon cure itself; and the pecuniary value of the negroes belonging to loyal masters will probably not exceed the amount of compensation which the United States will be willing and able to give.

The assumed difficulty of governing the Southern States as free and equal commonwealths, in case of their return to the Union, is purely imaginary. If brought back by force, and not by voluntary compact, they will return without the Territories, and without a Fugitive Slave Law. It may be assumed that in that event the victorious party would make the alterations in the Federal Constitution which are necessary to adapt it to the new circumstances, and which would not infringe, but strengthen, its democratic principles. An article would have to be inserted prohibiting the extension of slavery to the Territories, or the admission into the Union of any new Slave State. Without any other guarantee, the rapid formation of new Free States would ensure to freedom a decisive and constantly increasing majority in Congress. It would also be right to abrogate that bad provision of the Constitution (a necessary com-

promise at the time of its first establishment) whereby the slaves, though reckoned as citizens in no other respect, are counted, to the extent of three-fifths of their number, in the estimate of the population for fixing the number of representatives of each State in the Lower House of Congress. Why should the masters have members in right of their human chattels, any more than of their oxen and pigs? The President, in his Message, has already proposed that this salutary reform should be effected in the case of Maryland, additional territory, detached from Virginia, being given to that State as an equivalent: thus clearly indicating the policy which he approves, and which he is probably willing to make universal.

As it is necessary to be prepared for all possibilities, let us now contemplate another. Let us suppose the worst possible issue of this war—the one apparently desired by those English writers whose moral feeling is so philosophically indifferent between the apostles of slavery and its enemies. Suppose that the North should stoop to recognise the new Confederation on its own terms, leaving it half the Territories, and that it is acknowledged by Europe, and takes its place as an admitted member of the community of nations. It will be desirable to take thought beforehand what are to be our own future relations with a new Power professing the principles of Attila and Genghis Khan as the foundation of its Constitution. Are we to see with indifference its victorious army let loose to propagate their national faith at the rifle's mouth through Mexico and Central America? Shall we submit to see fire and sword carried over Cuba and Porto Rico, and Hayti and Liberia conquered and

brought back to slavery? We shall soon have causes enough of quarrel on our own account. When we are in the act of sending an expedition against Mexico to redress the wrongs of private British subjects, we should do well to reflect in time that the President of the new Republic, Mr. Jefferson Davis, was one of the original apostles of repudiation. Unless we abandon the principles we have for two generations consistently professed and acted on, we should be at war with the new Confederacy within five years about the African slave-trade. An English Government will hardly be base enough to recognise them, unless they accept all the treaties by which America is at present bound; nor, it may be hoped, even if *de facto* independent, would they be admitted to the courtesies of diplomatic intercourse, unless they granted in the most explicit manner the right of search. To allow the slave-ships of a Confederation formed for the extension of slavery to come and go, free and unexamined, between America and the African coast, would be to renounce even the pretence of attempting to protect Africa against the man-stealer, and abandon that Continent to the horrors, on a far larger scale, which were practised before Granville Sharp and Clarkson were in existence. But even if the right of intercepting their slavers were acknowledged by treaty, which it never would be, the arrogance of the Southern slaveholders would not long submit to its exercise. Their pride and self-conceit, swelled to an inordinate height by their successful struggle, would defy the power of England as they had already successfully defied that of their Northern countrymen. After our people by their

cold disapprobation, and our press by its invective, had combined with their own difficulties to damp the spirit of the Free States, and drive them to submit and make peace, we should have to fight the Slave States ourselves at far greater disadvantages, when we should no longer have the wearied and exhausted North for an ally. The time might come when the barbarous and barbarizing Power, which we by our moral support had helped into existence, would require a general crusade of civilized Europe, to extinguish the mischief which it had allowed, and we had aided, to rise up in the midst of our civilization.

For these reasons I cannot join with those who cry Peace, peace. I cannot wish that this war should not have been engaged in by the North, or that being engaged in, it should be terminated on any conditions but such as would retain the whole of the Territories as free soil. I am not blind to the possibility that it may require a long war to lower the arrogance and tame the aggressive ambition of the slave-owners, to the point of either returning to the Union, or consenting to remain out of it with their present limits. But war, in a good cause, is not the greatest evil which a nation can suffer. War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks nothing *worth* a war, is worse. When a people are used as mere human instruments for firing cannon or thrusting bayonets, in the service and for the selfish purposes of a master, such war degrades a people. A war to protect other human beings against tyrannical injustice; a war to give victory to their own ideas of right and good, and which is their own war, carried

on for an honest purpose by their free choice—is often the means of their regeneration. A man who has nothing which he is willing to fight for, nothing which he cares more about than he does about his personal safety, is a miserable creature, who has no chance of being free, unless made and kept so by the exertions of better men than himself. As long as justice and injustice have not terminated *their* ever renewing fight for ascendancy in the affairs of mankind, human beings must be willing, when need is, to do battle for the one against the other. I am far from saying that the present struggle, on the part of the Northern Americans, is wholly of this exalted character; that it has arrived at the stage of being altogether a war for justice, a war of principle. But there was from the beginning, and now is, a large infusion of that element in it; and this is increasing, will increase, and if the war lasts, will in the end predominate. Should that time come, not only will the greatest enormity which still exists among mankind as an institution, receive far earlier its *coup de grâce* than there has ever, until now, appeared any probability of; but in effecting this the Free States will have raised themselves to that elevated position in the scale of morality and dignity, which is derived from great sacrifices consciously made in a virtuous cause, and the sense of an inestimable benefit to all future ages, brought about by their own voluntary efforts.

AUSTIN ON JURISPRUDENCE.

THESE Lectures and Fragments, with the volume on 'The Province of Jurisprudence,' of which they are the continuation, and a very few though very elaborate essays on miscellaneous subjects, published at long intervals, mostly in Reviews, are all that remains of the intellectual life of a most remarkable mind. Mr. Austin's name and writings are little known, except to students of 'the science which, though only one of those on which his writings prove him to have reflected, was the subject on which he principally wrote. But in that science, even the limited portion of his labours which was before the world had placed him, in the estimation of all competent judges, in the very highest rank ; and if such judges are now greatly more numerous than when he began to write, the fact is in no small degree owing to his intellectual influence. He has been in nothing more useful than in forming the minds by which he is, and will hereafter be, judged. No writer whom we know had more of the qualities needed for

* *Edinburgh Review*, October 1863.—1. 'Lectures on Jurisprudence ; being the Sequel to 'The Province of Jurisprudence Determined.' To which are added Notes and Fragments, now first published from the Original Manuscripts.' By the late John Austin, Esq., of the Inner Temple, Barrister-at-Law. Two vols. 8vo. London : 1863.

2. 'On the Uses of the Study of Jurisprudence.' By the late John Austin, Esq., of the Inner Temple, Barrister-at-Law. Reprinted from the Third Volume of 'Lectures on Jurisprudence.' London : 1863.

initiating and disciplining other minds in the difficult art of precise thought. Though the merit and worth of his writings as a contribution to the philosophy of jurisprudence are conspicuous, their educational value, as a training school for the higher class of intellects, will be found, we think, to be still greater. Considered in that aspect, there is not extant any other book which can do for the thinker exactly what this does. Independently of the demands which its subject makes upon the attention, not merely of a particular profession, but of all liberal and cultivated minds, we do not hesitate to say that as a mere organon for certain faculties of the intellect, a practical logic for some of the higher departments of thought, these volumes have a claim to a place in the education of statesmen, publicists, and students of the human mind.

It is not, of course, intended to claim for Mr. Austin a position in the philosophy of law either equal or similar to that which posterity will assign to his great predecessor, Bentham. That illustrious thinker has done, for this important department of human affairs, what can only be done once. But though the work which Mr. Austin did, neither would nor could have been done if Bentham had not given the impulse and pointed out the way, it was of a different character from Bentham's work, and not less indispensable. In the confidence of private friendship, Mr. Austin once said of himself, that if he had any special intellectual vocation, it was that of 'untying knots.' In this judgment he estimated his own qualifications very correctly. The untying of intellectual knots; the clearing up of the puzzles arising from complex com-

binations of ideas confusedly apprehended, and not analysed into their elements; the building up of definite conceptions where only indefinite ones existed, and where the current phrases disguised and perpetuated the indefiniteness; the disentangling of the classifications and distinctions grounded on differences in things themselves, from those arising out of the mere accidents of their history, and, when disentangled, applying the distinctions (often for the first time) clearly, consistently, and uniformly—these were, of the many admirable characteristics of Mr. Austin's work as a jurist, those which most especially distinguished him. This untying of knots was not particularly characteristic of Bentham. He cut them rather. He preferred to draw his pen through the whole of the past, and begin anew at the beginning. Neither his tastes nor his mental habits were adapted to the other kind of work: but, though his neglect of it led him not unfrequently into errors, yet, all things considered, success has justified his choice. His effect on the world has been greater, and therefore more beneficial, by means of it. The battering ram was of more importance, in Bentham's time, than the builder's trowel. He had to conquer an inveterate superstition. He found an incondite mass of barbarian conceits, obsolete technicalities, and contrivances which had lost their meaning, bound together by sophistical ingenuity into a semblance of legal science, and held up triumphantly to the admiration and applause of mankind. The urgent thing for Bentham was to assault and demolish this castle of unreason, and to try if a foundation could not be laid for a rational science of law by direct consideration of the facts of

human life. To rescue from among the ruins such valuable materials as had been built in among rubbish, and give them the new and workmanlike shape which fitted them for a better edifice; to hunt among the irrationalities of law for helps to its rationale, was work for which, even if it had been opportune in his day, Bentham had not time. For Bentham's subject had a wider range than Mr. Austin's. It was the whole, of which the latter is but a part. The one inquiry was ultimate, the other instrumental. Mr. Austin's subject was Jurisprudence, Bentham's was Legislation.

The purpose of Bentham was to investigate principles from which to decide what laws ought to exist—what legal rights, and legal duties or obligations, are fit to be established among mankind. This was also the ultimate end of Mr. Austin's speculations; but the subject of his special labours was theoretically distinct, though subsidiary, and practically indispensable, to the former. It was what may be called the logic of law, as distinguished from its morality or expediency. Its purpose was that of clearing up and defining the notions which the human mind is compelled to form; and the distinctions which it is necessitated to make, by the mere existence of a body of law of any kind, or of a body of law taking cognisance of the concerns of a civilized and complicated state of society. A clear and firm possession of these notions and distinctions is as important to practice as it is to science. For only by means of it can the legislator know how to give effect to his own ideas and his own purposes. Without it, however capable the legislator might be of conceiving good laws in the abstract, he

could not possibly so word them, and so combine and arrange them, that they should really do the work intended and expected.

‘These notions and distinctions form the science of jurisprudence as Mr. Austin conceived it. The readers of what we must now call his first volume, ‘The Province of Jurisprudence Determined,’ have probably often regretted, that though it discussed in a most elaborate and searching manner the ‘province’ (in other words the subject-matter and limits) of jurisprudence, the nature and uses of the study itself were rather taken for granted than expressly set forth. This, which was a real defect in the former volume considered as a separate work, is now supplied by a dissertation on the study of jurisprudence, formed out of the introductory lectures to the two courses which Mr. Austin delivered, at University College and at the Inner Temple. This instructive paper, besides being included in the larger work, has, in order to recommend the study to a more numerous body of readers, been judiciously published separately as a pamphlet.

We have already, in reviewing the second edition of Mr. Austin’s ‘Province of Jurisprudence,’ republished by his widow in 1861, compared and contrasted the method of Mr. Austin with that of another eminent philosophical lawyer, Mr. Maine. The subject-matter of both writers is positive law—the legal institutions which exist, or have existed, among mankind, considered as actual facts. The aim of both is to let in the light of philosophy on these facts; and both do this with great success. Neither writer treats

Edinburgh Review, vol. cxiv. p. 474 (not by the present writer).

ex professo of laws as they ought to be; though, in treating of them as they are and as they have been, it is the declared aim of both to facilitate their improvement. But they pursue this end, for the most part, through different intellectual media. Mr. Maine's operation is essentially historical; not only in the mode of prosecuting his inquiry, but in the nature of the inquiry itself. He investigates, not properly the philosophy of law, but the philosophy of the history of law. In the various legal institutions which obtain, or have formerly obtained, he studies principally the causes that produced them. His book may be called a treatise on the action and reaction between the ideas prevalent among mankind, and their positive institutions. Under each of the principal classes of facts with which law is conversant—family, property, contract, and delict or offence—he historically investigates the primitive ideas of mankind, traces the customs and institutions, which have prevailed ever since, to their origin in those primitive ideas, and shows how institutions which were modelled on the rude notions of an early state of society, have influenced the thoughts of subsequent generations down to the present time. Speculations like these, when directed, as Mr. Maine's are, by a true historical genius, possess in a pre-eminent degree all the uses which can belong to history. The laws and institutions of primitive mankind are the richest indications available for reading their thoughts, entering into their feelings, and understanding their general mode of existence. But the historical value of these studies is the smallest part of their utility. They teach us the highly practical lesson, that institutions

which, with more or less of modification, still exist, originated in ideas now universally exploded; and conversely, that ideas and modes of thought which have not lost their hold even on our own time, are often the artificial, and in some sort accidental product of laws and institutions which exist no longer, and of which no one would now approve the revival.

It is not in this manner, except incidentally and occasionally, that Mr. Austin's treatise contributes to the improvement of law; though there is a place allotted to such speculations in his comprehensive conception of the study of jurisprudence. He does not specially contemplate legal systems in reference to their origin, and to the psychological causes of their existence. He considers them in respect of what may be called their organic structure. Every body of law has certain points of agreement with every other; and between those which have prevailed in cultivated and civilized societies, there is a still greater number of features in common. Independently of the resemblances which naturally exist in their substantive provisions (designed as these are for the same world, and for the same human nature), there is also a certain common groundwork of general conceptions or notions, each in itself very wide, and some of them very complex, which can be traced through every body of law, and are the same in all. These conceptions are not pre-existent; they are a result of abstraction, and emerge as soon as the attempt is made to look at any body of laws as a whole, or to compare one part of it with another, or to regard persons, and the facts of life, from a legal point of view. There are certain combinations of

facts and of ideas which every system of law must recognise, and certain modes of regarding facts which every such system requires. The proof is, that all legal systems require a variety of names, which are not in use for any other purpose. • Whoever has apprehended the full meaning of these names—that is, whoever perfectly understands the facts and the combinations of thoughts which the names denote—is a master of juristical knowledge; and a well-made lexicon of the legal terms of all systems would be a complete science of jurisprudence: for the objects, whether natural or artificial, with which law has to do, must be the same objects which it also has occasion to name.

But to conceive distinctly a great mass of objects, partly resembling and partly differing from one another, they must be classed; and to make any set of practical provisions, which cover a large field, definite and intelligible, they must be presented to the mind on some principle of arrangement, grounded on the degree of their connexion and alliance with one another. The details of different legal systems are different, but there is no reason why the main classifications and heads of arrangement should not be in a great measure the same. The facts of which law takes cognisance, though far from being identical in all civilised societies, are sufficiently analogous to enable them to be arranged in the same *cadres*. The more general of the terms employed for legal purposes might stand for the same ideas, and be expounded by the same definitions, in systems otherwise different. The same terminology, nomenclature, and principle of arrangement, which would render one system of

law definite, clear, and (in Bentham's language) cognoscible, would serve, with additions and variations in minor details, to render the same office for another.

Such a result, however, has not been attained by the mode in which existing bodies of law have been formed. Laws having in general been made singly, and their mass having grown by mere aggregation, there has usually been no authoritative arrangement but the chronological one, and no uniform or predetermined phraseology, even in the case of statute law; while in many countries, and pre-eminently in England, the greater portion of the law, the part which serves as the basis for all the rest, does not exist at all in the form of general language, but lies imbedded in judicial decisions; of which even the general principle has to be evolved by abstraction, and made the subject of forensic disputation, when the time comes for applying it. Whatever definiteness in detail, and whatever order or consistency as a whole, has been attained by any established system, has in almost all countries been given by private writers on law. All the generalizations of legal ideas, and all explicit statements of the meaning of the principal legal terms, have, speaking generally, been the work of these unauthorized persons—have passed from their writings into professional usage, and have ended by being, either expressly, or oftener by implication, adopted by governments and legislatures. So far as any great body of law has been systematized, this is the mode in which the work has been done; and being done piecemeal, by persons often ill-prepared for the task, and who had seldom any other object in view than

the convenience of professional practice, it has been, as a general rule, done very ill. Instead of classing objects together which agree in their main features, or in the points which are of chief importance to the ends of law, the classes formed consist of things which have either no common qualities, or none but such as are common to them with other things. When the bond of connexion is real, it seldom lies in the things themselves, but usually in the historical accidents of the particular body of laws. In actual systems of law 'most of the leading terms' (it is truly said by Mr. Austin*) 'are not names of a definite class of objects, but of a heap of heterogeneous objects.'

The only mode of correcting this evil, is to free from confusion and set in a clear light those necessary resemblances and differences, which, if not brought into distinct apprehension by all systems of law, are latent in all, and do not depend on the accidental history of any. These resemblances and differences, while they are the key to all others, are evidently those which, in a scientific point of view, are alone worth understanding in themselves. They are also those which are alone fit to be made use of as the groundwork of a scientific arrangement. The fact that they exist in all legal systems, proves that they go deeper down into the roots of law than any of those which are peculiar to some one system. That the main divisions of the subject should be grounded on these, follows from the first principle of classification, that the general should take precedence of the special: and as they are common to all systems, or to all which are of any scientific importance, the parts of

any given system which are peculiar to it will still find, in this arrangement, a proper place in which to lodge themselves; which would not happen if the main arrangement were itself grounded on distinctions purely historical, and belonging only to a particular system.

To clear up these general notions is, therefore, the direct object of the science of jurisprudence, as conceived by Mr. Austin. And the practical result of the science, if carried to the greatest perfection of which it is susceptible; would be to provide, first, such a legal terminology (with a strict and precise meaning attached to every word and phrase) that any system whatever of law might be expressed in it; and next, such a general scheme of arrangement, that any system whatever of law might be distributed according to it; and that when so expressed and distributed, every part of it would be distinctly intelligible, and each part would assist the comprehension of all the rest. Jurisprudence, thus understood, is not so much a science of law, as of the application of logic to law. But by affording a clear and connected view of the whole field of law—illuminating it by large, comprehensive, and exactly discriminated conceptions—and enabling every legal fact to be classed at once with those with which it has the nearest alliance, it bestows on the student either of the philosophy of law, or of any existing legal system, a command over the subject such as no other course of study would have made attainable.

In the attempt to investigate, and bring out into scientific clearness, the conceptions and distinctions of general jurisprudence, Mr. Austin has built chiefly

on the foundation of the Roman law. This has been a cause of disappointment to some earnest students, who expected, and would have preferred, something more decidedly original. The course, however, which Mr. Austin deliberately adopted, admits, we conceive, of full justification. If the conceptions and distinctions which he sought belong to law in general, they must exist in all bodies of law, either explicitly or latently, and might, in strictness, be evolved from any. By stripping off what belongs to the accidental or historical peculiarities of the given system, the elements which are universal will be more surely and completely arrived at, than by any process of construction *à priori*; and with the additional advantage of a knowledge not confined to generals, but including under each generalization a large acquaintance with the concrete particulars contained in it. If this be so, the legal system which has been moulded into the shape it possesses by the greatest number of exact and logical minds, will necessarily be the best adapted for the purpose; for, though the elements sought exist in all systems, this is the one in which the greatest number of them are likely to have been brought out into distinct expression, and the fewest to remain latent. And this superiority is possessed, beyond question, by the Roman law. The eminent systematizing genius of the Roman jurists, and not any over-estimate of the Roman law considered in itself, determined Mr. Austin to make it the basis of his own investigations; as is evident from many passages, and from the following especially:—

‘Much has been talked of the philosophy of the Roman Institutional writers. Of familiarity with Grecian philo-

sophy there are few traces in their writings, and the little that they have borrowed from that source is the veriest foolishness: for example, their account of *Jus Naturale*, in which they confound Law with animal instincts—Law, with all those wants and necessities of mankind which are causes of its institutions.

‘Nor is the Roman law to be resorted to as a magazine of legislative wisdom. The great Roman Lawyers are, in truth, expositors of a positive or technical system. Not Lord Coke himself is more purely technical. Their real merits lie in their thorough mastery of that system; in their command of its principles; in the readiness with which they recall, and the facility and certainty with which they apply them.

‘In consequence of this mastery of principles, of their perfect consistency (*elegantia*), and of the clearness of the method in which they are arranged, there is no positive system of law which it is so easy to seize as a whole. The smallness of its volume tends to the same end.

‘The principles themselves, many of them being derived from barbarous ages, are indeed ill fitted to the ends of law, and the conclusions at which they arrive, being logical consequences of their imperfect principles, necessarily partake of the same defect.’—*Study of Jurisprudence*, pp. 17-19.*

Mr. Austin, therefore, was justified in seeking for

* In the outline of his Course of Lectures, prefixed to ‘The Province of Jurisprudence,’ Mr. Austin seems to rest the logical superiority of the Roman over the English legal system mainly on the absence of the darkening distinction between real and personal property—a distinction which has no foundation in the philosophy of law, but solely in its history, and which he emphatically characterizes as ‘a cause of complexness, disorder, and darkness, which nothing but the extirpation of the distinction can thoroughly cure.’ (P. xciv.) The following passage (vol. ii. pp. 153, 4) shows at once his opinion of the English law, considered as a system, and of the reasons for preferring the Roman law to it, as a guide to general jurisprudence:—

‘I will venture to affirm that no other body of law, obtaining in a civilized community, has so little of consistency and symmetry as our own. Hence its enormous bulk, and (what is infinitely worse than its

the constituent elements of universal jurisprudence where they were certain to be found, and where (from the superior quality of the minds which had been employed on the system) more of those elements had been explicitly recognised, and adopted into the scientific arrangement of the law itself, than in any other legal system. There remains, it is true, a question belonging to a later stage of the inquiry: did the Roman jurists select as the foundation of their technology and arrangement those among the conceptions and distinctions of law universal which were best fitted for the purpose? Mr. Austin seems to think that they did; since his own arrangement is merely theirs in an improved form. We shall presently give our reasons for thinking that, with great merits, the arrangement of the Roman jurists has great faults; that, in taking as the ground of their entire system the classification of rights, they adopted a principle suited only to what Bentham called the substantive law, and only to the civil branch of that, and, in so doing, reversed the order of filiation of juristical conceptions, and missed the true aim of scientific classification. But this, though a very im-

mere bulk) the utter impossibility of conceiving it with distinctness and precision. If you would know the English law; you must know all the details which make up the mass. For it has none of those large *coherent* principles which are a sure *index* to details; and, since details are infinite, it is manifest that no man (let his industry be what it may) can compass the whole system.

‘Consequently, the knowledge of an English lawyer is nothing but a beggarly account of scraps and fragments. His memory may be stored with numerous particulars, but of the law as a whole, and of the mutual relations of its parts, he has not a conception.

‘Compare the best of our English Treatises with the writings of the classical jurists, and of the modern civilians, and you will instantly admit that there is no exaggeration in what I have ventured to state.’

portant, is still a secondary consideration. To find the absolutely best systematic order for a body of law, would be the ultimate result of a complete science of jurisprudence; but its main problem is to give clearness, precision, and consistency to the juristical conceptions themselves. What Mr. Austin has done towards this object, constitutes the great permanent worth of his speculations, considered as substantive results of thought. No one thoroughly versed in these volumes need ever again miss his way amidst the obscurity and confusion of legal language. He will not only have been made sensible of the absence of meaning in many of the phrases and dogmas of writers on law, but will have been put in the way to detect the true meaning, for which those phrases are the empty substitute. He will have seen this done for him in the Lectures, with rare completeness, in regard to a great number of the leading ideas of jurisprudence; and will have served an apprenticeship, enabling him with comparative ease to practise the same operation upon the remainder.

The Course of Lectures, which occupies the greatest part of these volumes, was never completed. The first eleven lectures, condensed (or rather enlarged) into six, form the original volume, lately republished. The remainder have never before appeared in print, but left an indelible impression on the minds of those who heard them delivered, among whom were an unusual number of persons since distinguished as among the foremost minds of the time. Though the Lectures do not conclude the subject, yet, with the loose and unfinished but rich and suggestive memoranda

which have been very properly subjoined to them, they fill up the greatest part of the outline given in the first volume; so that, when taken in conjunction with that outline, and with the important and elaborate notes appended to the tables which Mr. Austin prepared of the various known arrangements of the field of law, they give something like an adequate idea of the mode in which he would have treated the entire subject. We may add that, notwithstanding the fragmentary nature of the latter part of these volumes, they will be found, on the whole, easier reading (if that epithet can be applied to anything worth reading on such a subject) than the work already so highly prized by those for whom it was intended. This is an effect of that peculiarity of Mr. Austin's mind, which made his first drafts always more fitted for popularity than his finished performances. For, in deliberate scientific exposition, he was so rigid in his demands on himself, so intolerant of anything short of absolute completeness, so impatient while the slightest shadow rested upon any part of the field he surveyed, that he was apt to overlay his work with excess of matter, and, by the elaboration which he bestowed on minor points, weakened the general effect of his elucidation of those which were greater. But this, while it necessarily diminished the popularity of his writings, added to their intrinsic value. Where most men would have permitted themselves to pass lightly over some detail or difficulty, he developed it at full length; but it was because he well knew that unless the point were cleared up, the matter in hand could not be understood thoroughly. Those who pass on their way leaving dark corners

unexplored, and concern themselves only with as much of the subject as lies straight before them, often through that neglect miss the very key of the position. Absence of light and shade, and uniformity of distance, bringing all objects alike into the foreground, are fatal defects in describing things for merely artistic purposes; but Mr. Austin's delineations are like geometrical line-drawing, not intended to exhibit objects in their most impressive aspect, but to show exactly what they are. Whether it would have been possible, by greater artifice of composition, to have somewhat relieved the tension of mind required by the length and intricacy of the fifth and sixth chapters of 'The Province of Jurisprudence;' whether somewhat more of rhetoric, in the elevated sense in which the word was understood by Aristotle, might have conciliated an easier reception for their severe logic—those who have best learnt from experience the extreme difficulty of such a task will be the most backward to decide. But we feel certain that any competent student of the subject who reads those chapters once, will read them repeatedly, and that each reading will raise higher his estimate of their substance, and reconcile him more, if he ever needed reconciliation, with their manner.

In the very summary view which can alone be taken of the contents of the work, a few words must be premised on the introductory portion, although published many years earlier; the rather, as it affords an apt exemplification of what we have said concerning the object and character of the entire treatise. The inquiry into the 'Province of Juris-

prudencé' may be correctly characterized as being from one end to the other an analysis and explanation of a word. It is an examination of what is meant by a law, in the political or juristical sense of the term. And yet it is as far from being a merely verbal discussion, as the inquiry into the meaning of justice, which is the foundation of the greatest and most renowned of the writings of Plato. For the meaning of a name must always be sought in the distinctive qualities of the thing named; and these are only to be detected by an accurate study of the thing itself, and of every other thing from which it requires to be distinguished.

A law is a command. A command is an expression of desire, issuing from a superior, and enforced by a sanction, that is, by something of the nature of a punishment. Law, however, does not mean every command, but only commands which oblige *generally*—which oblige to acts or forbearances of a class, not to *an* act or forbearance individually determined. These several notions having been duly analysed and illustrated, various objects are brought to view, which do not possess all the attributes of a law, but which, bearing a certain analogy to laws, require to be distinguished from them. And even within the limits of the strict meaning of the term, the laws which are the subject of jurisprudence require to be distinguished from laws in the same logical sense but of a different species—namely, divine laws, or the laws of God. The region which these different inquiries travel over is large and important, including the following as its principal parts:—

First, the laws of God. Of the six lectures, or

chapters, composing the volume, three are occupied in the inquiry, by what means the will of God, concerning the rules of conduct to be observed by his rational creatures, is to be ascertained—ascertained, that is, so far as it has not been revealed, or, if revealed, requires ulterior inquiry respecting the sense intended by the revelation. The author discusses at considerable length the two rival theories on this subject, that of utility, and that of the moral sense; of the former of which he is an earnest supporter, and has given a most able and instructive defence. His treatment is sometimes such as might suggest the idea that he regarded the binding force of the morals of utility as depending altogether upon the express or implied commands of God. This, however, is a mere appearance, arising from the particular point of view to which he was limited by the nature of his subject. What is called the moral law, was only related to the Law of which Mr. Austin was treating, in so far as it might be considered to possess the distinctive character of laws proper, that of being the command of a superior. If he could have been suspected of encouraging a mere worship of power, by representing the distinction of right and wrong as constituted by the Divine will, instead of merely recognised and sanctioned by it, the supposition would have been conclusively rebutted by a passage at page 116: ‘If the laws set by the Deity were not generally useful, or if they did not promote the general happiness of his creatures, or if their great Author were not wise and benevolent, they would not be good, or worthy of praise, but were devilish and worthy of execration.’

The laws with which jurisprudence is conversant, having been distinguished from divine laws, have next to be discriminated from what are called laws only by way of analogy—rules prescribed and sanctioned only by opinion: to which Mr. Austin, by a happy extension of the term Positive as applied to law, gives the name of Positive Morality, meaning the moral opinions and sentiments actually prevailing in any given society, as distinguished from Deontology, or morality as it ought to be. Of this character is much that is commonly (to the great confusion of the minds of students) called by the name of Law. What is termed Constitutional Law is, in part, only maxims of morality, considered proper to be observed towards one another by the component members of the sovereign body. But the strongest case is that of International Law, which, as independent nations are not subject to any common political superior, ought not to be termed Law, but Positive International Morality. It is law only in as far as effect is given to its maxims by the tribunals of any particular country; and in that capacity it is not international law, but a part of the particular law of that country.

Lastly, laws properly so called have to be distinguished from laws which are such only in a metaphorical sense—the laws of nature as the expression is understood by physical inquirers, meaning the uniformities of co-existence or succession in the phenomena of the universe. That an ambiguity like this should ever have misled any one—that what are laws, only by a metaphor, should be supposed to be laws in the same sense as those which are really the commands of a superior—would hardly *à priori* have

appeared probable; yet this confusion is total in the majority of modern writers; among whom Mr. Austin mentions Hooker, Blackstone, and Montesquieu in his celebrated first chapter, which is even now regarded by most French thinkers as profound philosophy. In our own country we are frequently warned by a certain class of writers against disobeying or violating the physical laws of organic life; as if it were not the very meaning of a physical law, that it may be unknown or disregarded, but cannot possibly be violated.

These distinctions, with the many important considerations into which they branch out, bring us to the end of the fifth chapter. The sixth is employed in giving precision to the remainder of the conceptions involved in a law in the positive sense (a law emanating from a sovereign or political superior), by clearing up the meaning of sovereignty, and independent political society: involving incidentally the whole subject of constitutional organization, and the division of the sovereignty among several members; also that of subordinate governments, of federations, and all the various relations in which one political society can stand to another.

In the Lectures newly published, the first subject treated is the most general of all those which come within the scope of jurisprudence—the nature and meaning of Rights (understanding thereby legal rights), and of legal Duties or Obligations. In order to treat of this subject, it was necessary to define certain notions, which are involved in all cases of rights and duties—the notions of person, thing, act,

and forbearance. These, accordingly, are the first matters with which the author deals; and he criticizes various cases of confusion of thought or misuse of language on these subjects, in the writings of jurists.

All rights, as he observes, are rights to acts or forbearances, either on the part of persons generally, or of particular persons. When we talk of our right to a thing, we mean, if the thing is in our possession, a right to the forbearance of all persons from taking it, or disturbing us in its enjoyment. If it is in the possession of some other person, we mean a right to an act or forbearance of that person—the act of delivering it to us, or forbearance on his part from detaining it. It is by commanding these acts and forbearances that the law confers the right; and the right, therefore, is essentially and directly a right to them, and only indirectly to the thing itself.

Right is correlative with legal duty or obligation. But though every right supposes a correlative obligation—though the obligation properly constitutes the right—every obligation does not create a right correlative to it. There are duties or obligations which are not relative, but (as the phrase is) absolute. The act commanded is not to be done, or the forbearance observed, towards or in respect to a determinate person; or, if any, not a person distinct from the agent himself. Such absolute duties comprise, first, what are called duties towards oneself. The law may forbid suicide or drunkenness, but it would not be said, by so doing, to give me a right to my life or health as against myself. Secondly, duties towards persons indefinitely, or towards the sovereign or state;

such as the political duties of a citizen, which do not correspond to any right vested in determinate individuals. Lastly, duties which do not regard persons—the duty, for instance, of abstaining from cruelty to the lower animals; and religious duties as such, if the law, most improperly, thinks fit to enforce them.

From a comparison between duties which correspond to rights, and duties which have no corresponding rights, and also from a brief review of the different kinds of rights, Mr. Austin endeavours to collect a general definition of a legal right. He rejects the definitions usually given, as not applicable to all cases. He is of opinion that rights have very few properties in common, and that ‘all that can be affirmed of rights, considered universally, amounts to a brief and barren generality.’* The only definition of a right which he finds himself able to give, is, that whenever a legal duty is to be performed *towards* or *in respect of* some determinate person, that person is invested with a right. The idea of a legal right involves, in his opinion, nothing more.

This is one of the points (extremely few, considering the extent and intricacy of the subject) on which we cannot help thinking that Mr. Austin’s analysis falls short of perfect exhaustiveness.

Mr. Austin always recognises, as entitled to great consideration, the custom of language—the associations which mankind already have with terms: inso-much that, when a name already stands for a particular notion (provided that, when brought out into distinct consciousness, the notion is not found to be self-contradictory), the definition should rather aim at

* Vol. ii. (first of the new volumes), p. 56.

fixing that notion, and rendering it determinate, than attempt to substitute another notion for it. A definition of right, so wide and general as that of Mr. Austin, does not, as it appears to us, stand this test. It does not satisfy the conception which is in everyone's mind, of the meaning of the word right. Almost every one will feel that there is, somehow, an element left out; an element which is approximately, though perhaps imperfectly, expressed by saying, that the person who has the right, is the person who is meant to be benefited by the imposition of the duty.

In the Lectures as delivered (which included much extemporaneous matter, not preserved in the publication) Mr. Austin anticipated this obvious objection, and combated it. The notion of a right as having necessarily for its purpose the benefit of the person invested with it, is contradicted, he said, by the case of *fiduciary* rights. To these he might have added (and probably did add) the rights of public functionaries—the judge, for instance, or the policeman; which are not created for the benefit of the judge or policeman themselves. These examples are conclusive against the terms of the particular definition contended against; but it will appear, from two considerations, that they do not fully dispose of the subject.

In the first place, Mr. Austin's own definition is amenable to a similar, though contrary, criticism. If the definition which he rejected does not comprise all rights, his own comprises more than rights. It includes cases of obligation to which he himself must have admitted that there were no rights corre-

sponding. For example, the legal duties of jailers. It is a jailer's duty to feed the prisoners in his custody, and to this duty corresponds a correlative right in the prisoners. But it is also his legal duty to keep them in confinement, perhaps in bodily fetters. This case is strictly of the kind contemplated in Mr. Austin's definition of a right; there is a duty to be performed, towards, or in respect to, a determinate person or persons; but would it be said that a corresponding right resided in those persons, or, in other words, that they had a right to be imprisoned, and that their right would be violated by setting them at liberty? Again, it is the duty of the hangman to inflict capital punishment upon all persons lawfully delivered to him for that purpose; but would the culprit himself be spoken of as having a right to be hanged? Certainly not. And the reason is one which Mr. Austin fully recognises. He says, in one place,* that 'a right in a condition which is purely burthensome is hardly conceivable;† and, in another, that 'a right to a burthen, or to vindicate the enjoyment of a burthen,' is 'an absurdity.' He also, with writers in general, speaks‡ of many obligations as existing for the sake of the correlative rights. If this is a correct expression, there is more in the idea of a right, than an obligation towards or in respect to a given person; since an obligation cannot exist merely in order that there may be a person towards or in respect to whom it exists.

The truth is, that it is not customary to speak of a person as having a right to anything which is not, in the contemplation of the legislator, a desirable thing;

* Vol. ii. p. 52.

† Ib. p. 395.

‡ Ib. p. 423.

and it is always assumed that the person possessing the right is the person specially interested in enforcing the duty which corresponds to it. Mr. Austin, no less than others, makes this supposition, when, in the common language of jurists, he says, that when a duty is violated, the person who has the right is *wronged* or *injured* by the violation. This desirableness of the right, and this especial vocation on the part of the possessor to defend it, do not necessarily suppose that the right is established for his particular advantage. But it must either be given to him for that reason, or because it is needful for the performance of his own legal duties. It is consistent with the meaning of words to call that desirable to us, which is required for the fulfilment of our duties. The alternative covers the case of fiduciary rights, the rights of magistrates, and we think every case in which a person can, consistently with custom and with the ends of language, be said to have a right. And, including all such cases, and no others, it seems to supply what is wanting to Mr. Austin's definition. We submit it therefore to the consideration of his readers.

The analysis of right and duty is not complete without an analysis of wrong or injury—the violation of a duty or of a right. And in order to clear up all that is included in the notion of wrong or injury, it is necessary 'to settle the meaning of the following perplexing terms—viz. will, motive, intention, and negligence; including in the term negligence those *modes* of the corresponding complex notion which are styled temerity or rashness, imprudence or heedless-

ness.’¹ These topics comprise the whole theory of the grounds of imputation; in other words, the *generalia* of criminal or penal law. How much bad law, and bad philosophy of law, have arisen from imperfect comprehension of them, may be seen in the nonsense of English law writers concerning malice. The full elucidation of them by our author occupies a considerable space, and our limits are inconsistent with even the briefest abstract of it. Mr. Austin’s special vocation for ‘untying knots,’ which would have fitted him as well for the problems of inductive psychology as for those of jurisprudence, is nowhere called into more successful exercise. Without a single metaphysical subtlety, there cannot be a more happy example than he here affords of metaphysical analysis.

With the idea of wrong, that of sanction is inseparably bound up; and after settling the meaning of sanction in its largest sense, Mr. Austin examines the two kinds into which sanctions are divided—namely, civil and criminal; or, as they are sometimes called, private and public. Whoever has even the most superficial acquaintance with the writings of criminalists, knows what a mass of vague and confusing speculation this distinction has given birth to; though, as pointed out by Mr. Austin, the real difference between civil injuries and crimes consists only in this, that in wrongs of the former class the sanction is enforced at the instance and discretion of the injured party, who has the power of remitting the liability incurred by the wrongdoer; while, when the offence is called a crime (which only means that the procedure is of the

kind called criminal), the sanction is enforced at the discretion of the sovereign or state, by whom alone the liability of the wrongdoer can be remitted. This case is an instance of the mode in which a confused apprehension of juristical ideas, in themselves not at all difficult of comprehension, reacts mischievously on practical legislation. The unhappy idea of classifying wrongs according to a difference which exists only in the modes appointed for redressing them, has raised up a notion in English lawyers that there is a distinction between civil injuries and crimes considered *per se*, which makes damages the proper remedy for the one, and punishment for the other. And hence that serious defect in English law, by which punishment *eo nomine*, and damages to the injured party, cannot both be awarded in the same cause; while in France, on the contrary, the sufferers by the crime can always be admitted as *parties civiles*, and compensation to them is habitually a part of the sentence. In England, whenever the wrong is of so grave a character as to require punishment over and above the obligation of making amends, the injured party loses the indemnity which he would have been able to exact for a less heinous injury; and the penalty on the criminal is deprived of one of its uses, that of being instrumental to the redress of the particular evil which the crime has inflicted upon an individual.

With the twenty-eighth Lecture Mr. Austin commences a new subject—Law considered with reference to its sources, and to the modes in which it begins and ends; involving the distinction between written

and what is called unwritten law; the theory of customary law; the meaning of what is called equity; and the false metaphysical distinction drawn by the Roman lawyers and by nearly all modern jurists, between law natural and positive. These theoretical considerations involve, among other important consequences, the highly practical question of codification, or the reduction of the laws of any country into a compact body, expressed in fixed words, and conforming to a systematic arrangement. Whether we regard the importance of these subjects, or the mass of illogical, unphilosophical, and practically misleading speculation in which they have been enveloped, there is no part of the field of jurisprudence on which the value of precise and logical thought is more conspicuous. Mr. Austin was eminently fitted to supply it, both by the general quality of his intellect, and by that accurate special knowledge of the history of institutions and of juristical ideas, which he had in common with Mr. Maine; of whose masterly treatise also a great part of the value has reference to this cluster of subjects.

Even such apparently simple phrases as 'written' and 'unwritten' law, have their full share of the ambiguity which infects nearly the whole vocabulary of legal science. They are employed to express no less than three different distinctions. 'Written law' is used, first, in its literal sense, to denote law which is put into writing at the time of its origin, as distinguished from 'law originating in custom, or floating traditionally amongst lawyers.' But this last so-called law is not really law until re-enacted by the legislature, or enforced judicially by the tribunals.

Secondly, written law, in what is called its juridical

sense, means law made directly by the sovereign legislature, as distinguished from that which is made by subordinate legislatures, or by judicial tribunals. In this sense of the term, laws made by provincial or colonial legislatures are unwritten laws, as were also the edicts of the Roman prætors. But the laws made by the Roman emperors, not as legislators by their imperial constitutions, but as supreme judges by their rescripts, would be styled written law, because made directly by the sovereign.

Thirdly (and this is the most important distinction), written law is synonymous with statute law, or law made (whether by supreme or subordinate authorities) in the way of direct legislation. Unwritten law is judiciary law, or law made indirectly, in the way of judicial decision, either by the sovereign in a judicial capacity, or by a subordinate judge. The terms statutory law and judiciary law, being unambiguous, should be exclusively employed where this really fundamental distinction is to be expressed.

Mr. Austin next deals with the strange notion which has prevailed among the Roman and the majority of modern jurists, that customary law exists as law merely by being custom; that it is law not by the will of the legislature, but by the spontaneous act of those who practise it. He exposes the absurdities involved in this notion, and shows that custom in itself belongs not to law, but at most to positive morality, binding only by moral sanctions—by the penalties of opinion. What was originally custom may become law, when either the legislature (supreme or subordinate) enacts a statute in conformity to the custom, or the tribunals recognise it, and enforce it

by legal sanctions. In both these ways, custom, in all countries, is continually passing into law. But it has force as law solely by the authority of the sovereign legislator, who either shapes his direct commands in accordance with the custom, or lends his sanctions to the tribunals, which, in the discretion allowed them, annex those sanctions to the particular practice, and render obligatory what before was only voluntary.

The notion of writers on law, 'that there are positive laws which exist as positive laws independently of a sovereign authority,' is not limited to customary laws. It extends to the laws which, in the Roman system avowedly, and in all others really, are modelled on the opinions and practices of private lawyers. The *Responsa Prudentum*, and the treatises of institutional writers, gave birth to the whole body of law contained in the Pandects; and in England 'much of the law of real property is notoriously taken from opinions and practices which have grown up, and are daily growing up, amongst conveyancers.' The English tribunals (by what, when first employed, was an entirely indispensable artifice) keep up what Mr. Austin, with reference to present circumstances, justly calls the 'puerile fiction,' that these opinions and practices are mere *evidence* of law already established by custom. But they well know, and every lawyer knows, that the law thus introduced is really new, and, in the case which creates the first precedent, is even *ex post facto*; though not generally liable to the condemnation implied in that term, being commonly shaped for the purpose of fulfilling, not frustrating,

the expectations presumed to have been entertained by the parties concerned.

The fact that there is law which the legislature has never expressly announced, but which is, with its tacit consent, made by tribunals which are not regularly authorized to enact law, but only to declare it, has thrown a vagueness over the whole idea of law, which has contributed greatly to obscure the distinction between it and positive morality. The error, that law exists as such independently of legal sanctions, appears in an aggravated shape in the notion that there exists a natural law—a law known by the light of nature, which does not emanate from legislators, but is nevertheless binding on tribunals, and may and ought to be by them enforced by reason of its natural obligation only. This *Jus Naturale* has, as Mr. Austin observes,* ‘thoroughly perplexed and obscured the sciences of jurisprudence and ethics.’ As the notion admits only of an historical explanation, Mr. Austin deals with it substantially in the same manner as Mr. Maine.

He expounds the origin of the *Jus Gentium* of the early Roman lawyers; a different thing not only from international law, to which the term has been perversely transferred by modern jurists, but also from the Natural Law of modern writers on jurisprudence, though of this last it is the real progenitor. The *jus gentium* took its rise from the necessity in which the Romans found themselves, through the growth of their dominion, of administering justice to persons who were not Romans—to whom the laws provided for Roman citizens were not applicable, and who, belonging to

different nations and communities, had originally different laws. Provincials of the same province retained, as between themselves, their old laws; but between a provincial and a Roman citizen, or between provincials of one province and those of another, it was neither convenient, nor would in most cases have been just, to decide disputes by a law which was not the law of both parties. The prætors, whose decision in such cases was probably at first arbitrary, were able to find many legal principles and provisions which were not peculiar to either people (as so much of the early Roman law was peculiar to the Romans) but were common to the laws of all or of many different communities. These principles and provisions there seemed no hardship in applying to cases between persons of what would now be called different nationalities. And where these did not furnish a rule exactly applicable to the case, the prætors were led to supply the deficiency by rules either derived from them by analogy, or suggested by a sense of substantial justice or expediency. In this manner arose the idea of a body of law not peculiar to one, but common to all nations, on which the prætors were supposed, and supposed themselves, to have fashioned the body of positive law which grew up under their hands. This law, being abstracted from the peculiarities both of the *Jus Quiritium* and of all other local and special bodies of law or custom, was, as might naturally be expected, of a more liberal character. It was less charged with technical and circuitous modes of proceeding, invented to evade conflict with local or accidental prejudice. It was less infected by the freaks of fancy which, as Mr. Austin observes, are 'omnipotent with barbarians.'

but in which one barbarous people is not likely to agree with another. It might be said, by comparison, to represent that portion of all systems, which arose from the wants and feelings of human nature generally. Being, for this reason, as well as from its originating in a more civilized period, far preferable to the old Roman law, it became the model on which the prætors, by their edicts, gradually modified the old law itself; and finally (though not till after many centuries), almost entirely substituted itself for the original Roman law. The provisions of the more liberal *jus gentium*, applied by the prætors as modifying principles to the old law, obtained the name of *Æquitas*, or equity; an appellation which became extended to the somewhat similar process by which the Court of Chancery for ages employed itself in supplying the omissions and mitigating the barbarities of the feudal laws of England. The explanation and elucidation of this one word Equity, in the many senses in which it is used by jurists, forms the subject of several of Mr. Austin's lectures: Both historically and philosophically, they are among the most interesting parts of the Course: though much of the matter they contain, when once stated, appears so obvious, that one is apt to forget how often and by what esteemed authorities it has been misunderstood.

I could point, says Mr. Austin (vol. ii. p. 273), 'at books and speeches, by living lawyers of name, wherein the nature of the Equity administered by the Chancellor, or the nature of the jurisdiction (styled extraordinary) which the Chancellor exercises, is thoroughly misunderstood:—wherein the anomalous distinction between Law and Equity is supposed to rest upon principles necessary or universal; or (what is scarcely credible) wherein the functions of the Chancellor, as exercising his extraordinary jurisdiction, are compared to the *arbitrium boni viri*, or to the functions of an *arbiter* released from the observance of rules.'

Now it was this Roman idea of a *jus gentium*, or portion of law common to all nations, which grew insensibly into the modern idea of Natural Law. 'The *Jus Naturale*, or law of nature,' as Mr. Maine observes,* 'is simply the *jus gentium* seen in the light of a peculiar theory.' That theory, as both he and Mr. Austin remark, was derived from the precept 'Live according to Nature' of the Greek philosophical schools. 'After Nature had become a household word in the mouths of the Romans, the belief gradually prevailed among the Roman lawyers that the old *jus gentium* was in fact the lost code of Nature, and that the prætor, in framing an Edictal Jurisprudence on the principles of the *jus gentium*, was gradually restoring a type from which law had only departed to deteriorate.† Being observed or recognised universally, these principles were supposed to have a higher origin than human design, and to be (we quote Mr. Austin‡) 'not so properly rules of human position or establishment, as rules proceeding immediately from the Deity himself, or the intelligent and rational Nature which animates and directs the universe.' This notion, once formed, was, by an obvious process, so enlarged as to include merely moral or merely customary rules which had obtained general acceptance; 'every rule, in short, which is common to *all* societies, though the rule may not obtain as positive law in all political communities, or in any political community.'§ In this manner the Natural Law of modern writers was extended to those international usages, and those rules of international morality, which obtained generally among nations.

* Ancient Law, p. 52.

† Vol. ii. p. 261.

‡ Maine, p. 56.

§ Vol. ii. p. 260.

And by a similar process each writer was led to include in his scheme of Natural Law, whatever maxims of justice or utility approved themselves to him as an individual moralist, provided they appeared to be at once self-evident and universal. The writings which profess to treat of the Law of Nature and Nations are a chaos of all these materials. 'In studying these writers,' says Mr. Maine,* 'the great difficulty is always to discover whether they are discussing law or morality—whether the state of international relations they describe is actual or ideal—whether they lay down that which is, or that which in their opinion ought to be.' This arose from the confused apprehension of the very meaning of law, engendered by their notion of a Law of Nature according to which what in their opinion ought to be law, was conceived as being, in some strange manner, law already. By this confusion they have spread a thick fog over the distinctions and demarcations which separate the three different notions, positive law, positive morality, and deontology, or morality as it ought to be.

The influence of the imaginary Law of Nature over modern thought has been all-pervading; on the whole, however, still greater on the Continent than in England. Mr. Maine very truly affirms,† that 'the theory of natural law is the source of almost all the special ideas as to law, politics, and society, which France during the last hundred years has been the instrument of diffusing over the western world. The part' (he continues), 'played by jurists in French history, and the sphere of juristic conceptions in French thought, have always been remark-

Ancient Law, p. 97.

† Maine, p. 80.

ably large; and in the latter half of the last century, when other old modes of thought were breaking up, the calamitous influence of Rousseau (calamitous at least in this respect) became powerfully operative in strengthening this particular delusion. Coleridge, in the 'Friend,' has maintained, with much force of argument, that the thrusting of immutable principles of morality into the province of law, and assuming them as the only legitimate basis of politics, is the essence of Jacobinism. It is the essence not specially of that, but of a general mode of thought which prevails among French thinkers of all political opinions. As a general rule, French speculation knows no distinction or barrier between the province of morals and that of politics or legislation. While, on the one hand, it tends to impose on morals (for this, however, Catholic thought and the influence of the Canonists are partly responsible) all the formality and literalness of juridical rules; on the other, it invests the creations of pure legal institution—the law of property for example—with the sacredness and indefeasibility of the fundamental doctrines of morals; and cannot bear to discuss such a question, for instance, as copyright, on grounds of general expediency, but insists on clenching it by affirming or denying an assumed absolute right in authors to hold the produce of their brain, by themselves or their representatives, as permanent property to the end of time.

The influence, for good and for evil, of the theory of a Law of Nature, is delineated by Mr. Maine more fully than was compatible with Mr. Austin's more extensive design. There is no doubt that for a long period the good side of the influence predomi-

nated. It assisted mankind in disencumbering themselves from a superstitious reverence for the institutions which had historically grown up in their several countries. It accustomed them to test particular laws by general principles of some sort, and gave them a type of excellence of which simplicity and symmetry were among the supposed characteristics. Finally, it disregarded all distinctions between man and man, between citizen and foreigner, noble and burgess, burgess and peasant; and Mr. Maine is of opinion 'that to the assumption of a Law Natural we owe the doctrine of the fundamental equality of human beings.' When almost everything which was artificial was oppressive, the reaction in favour of what was supposed to be natural had a healthy tendency; though we now know that the real natural state (if natural means primitive), instead of being the reign of justice and freedom, is a condition of more universal tyranny than any form whatever of civilized life. But whatever power of liberalizing men's minds may once have belonged to the doctrine of Natural Law, that power is now exhausted; the doctrine has done all it can do in that direction, and its remaining influence serves only to make men greater bigots, not indeed to the peculiar vices of any given system, but to whatever vices have existed from the beginning in them all. Meanwhile, the theory of law must be a mass of contradiction as long as the imaginary Natural Law retains any authority in it; for as every actual system of law has been shaped out by conflicting instincts, a theory generalized from what they have in common is necessarily full of conflicting principles, and affords, on both sides of every controverted point,

arguments which, if the theory be granted, are all equally unanswerable.

In the thirty-seventh Lecture Mr. Austin commences discussing the differences which distinguish statute from judiciary law; the advantages and disadvantages of judicial legislation, and the possibility and desirableness of excluding it for the future, and converting all judiciary law into statute—in other words, codification. From this excellent discussion we shall permit ourselves, in consideration of its great practical moment, to give a longer quotation than we have ventured to make from any other portion of the Course. It is taken from the place in which, after remarking on some disadvantages erroneously attributed to judiciary law, Mr. Austin points out the evils which are really inherent in it.

‘First: A judiciary law (or a rule of judiciary law) exists nowhere in fixed or determinate expressions. It lies *in concreto*: or it is implicated with the peculiarities of the particular case or cases, by the decision or decisions whereon, the law or rule was established. Before we can arrive at the rule, we must abstract the *ratio decidendi* (which really constitutes the rule) from all that is peculiar to the case through which the rule was introduced, or to the resolution of which the rule was originally applied. And in trying to arrive at the rule by this process of abstraction and induction, we must not confine our attention to the general positions or expressions which the judicial legislator actually employed. We must look at the whole case which it was his business to decide, and to the whole of the discourse by which he signified his decision. And from the whole of his discourse, combined with the whole of the case, we must extract that *ratio decidendi*, or that general principle or

ground, which truly constitutes the law that the particular decision established.

‘But the process of abstraction and induction to which I now have alluded, is not uncommonly a delicate and difficult process; its difficulty being proportioned to the number and the intricacy of the cases from which the rule that is sought must be abstracted and induced. Consequently, a rule of judiciary law is less accessible and knowable than a statute law. . . . And it must be recollected, that whether it be performed by judges applying the rule to subsequent cases, or by private persons in the course of extra-judicial business, this delicate and difficult process is commonly performed in haste. Insomuch that judges in the exercise of their judicial functions, and private persons in their extra-judicial transactions, must often mistake the import of the rule which they are trying to ascertain and apply.

‘And this naturally conducts me to a *second* objection: namely, that judiciary law (generally speaking) is not only applied in haste, but is also *made* in haste. It is made (generally speaking) in the hurry of judicial business, and not with the mature deliberation which legislation requires, and with which statute law is or might be constructed. . . .

‘There is more of stability and coherency in judiciary law than might, at the first blush, be imagined. But though it be never so stable and never so coherent, every system of judiciary law has all the evils of a system which is really vague and inconsistent. This arises mainly from two causes: the enormous bulk of the documents in which the law must be sought, and the difficulty of extracting the law (supposing the decisions known) from the particular decided cases in which it lies imbedded.

‘By consequence, a system of judiciary law (as every candid man will readily admit) is nearly unknown to the bulk of the community, although they are bound to adjust their conduct to the rules or principles of which it consists. Nay, it is known imperfectly to the mass of lawyers, and even to the most experienced of the legal profession. A

man of Lord Eldon's legal learning, and of Lord Eldon's acuteness and (comprehension,) may know where to find the documents in which the law is preserved, and may be able to extract from the documents the rule for which he is seeking. To a man, therefore, of Lord Eldon's learning, and of Lord Eldon's acuteness, the law might really serve as a guide of conduct. But by the great body of the legal profession (when engaged in advising those who resort to them for counsel), the law (generally speaking) is divined rather than ascertained: And whoever has seen opinions even of celebrated lawyers, must know that they are often worded with a discreet and studied ambiguity, which, whilst it saves the credit of the uncertain and perplexed adviser, thickens the doubts of the party who is seeking instruction and guidance. And as to the bulk of the community—the simple-minded laity (to whom, by reason of their simplicity, the law is so benign)—they might as well be subject to the mere *arbitrium* of the tribunals, as to a system of law made by judicial decisions. A few of its rules or principles are extremely simple, and are also exemplified practically in the ordinary course of affairs: Such, for example, are the rules which relate to certain crimes, and to contracts of frequent occurrence. And of these rules or principles, the bulk of the community have some notion. But those portions of the law which are somewhat complex, and are not daily and hourly exemplified in practice, are by the mass of the community utterly unknown, and are by the mass of the community utterly unknowable. Of those, for example, who marry, or of those who purchase land, not one in a hundred (I will venture to affirm) has a distinct notion of the consequences which the law annexes to the transaction.

‘Consequently, although judiciary law be really certain and coherent, it has all the mischievous effect (in regard to the bulk of the community) of *ex post facto* legislation. Unable to obtain professional advice, or unable to obtain advice which is sound and safe, men enter into transactions of which they know not the consequences, and then (to their

surprise and dismay) find themselves saddled with duties which they never contemplated.

‘The ordinary course is this :—

‘A man enters into some transaction (say, for example, a contract) either without advice, or with the advice of an incompetent attorney.

‘By consequence, he gets into a scrape.

‘Finding himself in a scrape, he submits a case, through his attorney, to counsel.

‘And, for the fee to attorney and counsel, he has the exquisite satisfaction of learning with certainty that the mischief is irremediable.

‘[I am far from thinking, that the law ever can be so condensed and simplified, that any considerable portion of the community may know the whole or much of it.

‘But I think that it may be so condensed and simplified, that *lawyers* may know it : and that at a moderate expense, the rest of the community may learn from lawyers beforehand the legal effect of transactions in which they are about to engage.

‘Not to mention (as I shall show, when I come to the *rationale* of the distinction between Law of Things and Law of Persons) that the law may be so arranged, that each of the different classes of persons may know something of the part of it with which they are particularly concerned.

‘Forms, too, for the more usual transactions might be made out by the legislature.]

‘The evil upon which I am insisting is certainly not *peculiar* to judiciary law. Statute law badly expressed, and made bit by bit, may be just as bulky and just as inaccessible as law of the opposite kind. But there is this essential difference between the kinds of law. The evil is inherent in judiciary law, although it be as well constructed as judiciary law can be. But statute law (though it often is bulky and obscure) *may be* compact and perspicuous, if constructed with care and skill. . . .

‘Fifthly: I am not aware that there is any *test* by

which the validity of a rule made judicially can be ascertained.

‘Is it the *number* of decisions in which a rule has been followed, that makes it law binding on future judges? Or is it the *elegantia* of the rule (to borrow the language of the Roman lawyers), or its consistency and harmony with the bulk of the legal system? Or is it the *reputation* of the judge or judges by whom the case or cases introducing the rule was decided? . . .

‘We never can be absolutely certain (so far as I know) that any judiciary rule is good or valid law, and will certainly be followed by future judges in cases resembling the cases by which it has been introduced.

‘Here, then, is a cause of uncertainty which seems to be of the essence of *judiciary* law. For I am not aware of any contrivance by which the inconvenience could be obviated. . .

‘Sixthly: In consequence of the implication of the *ratio decidendi* with the peculiarities of the decided case, the rule established by the decision (or the *ratio*, or the general principle of the decision) is never or rarely comprehensive. It is almost necessarily confined to such future cases as closely resemble the case actually decided: although other cases more remotely resembling may need the care of the legislator. In other words, the rule is necessarily limited to a narrow *species* or sort, although the *genus* or kind, which includes that *species* or sort, ought to be provided for at the same time by one comprehensive law.

‘This is excellently explained by Sir Samuel Romilly:—

“Not only is the judge, who at the very moment when he is making law, is bound to profess that it is his province only to declare it; not only is he thus confined to technical doctrines and to artificial reasoning—he is further compelled to take the narrowest view possible of every subject on which he legislates. *The law he makes is necessarily restricted to the particular case which gives occasion for its promulgation.* Often when he is providing for that particular case, or according to

the fiction of our Constitution, is declaring how the ancient and long-forgotten law has provided for it, he represents to himself other cases which probably may arise, though there is no record of their ever having yet occurred, which will as urgently call for a remedy as that which it is his duty to decide. It would be a prudent part to provide, by one comprehensive rule, as well for these possible events, as for the actual case that is in dispute, and, while terminating the existing litigation, to obviate and prevent all future contests. This, however, is, to the judicial legislator, strictly forbidden; and if, in illustrating the grounds of his judgment, he adverts to other and analogous cases, and presumes to anticipate how they should be decided, he is considered as exceeding his province; and the opinions thus delivered are treated by succeeding judges as extra-judicial, and as entitled to no authority."

' [Hence, exigencies of society provided for bit by bit, and therefore slowly.

' Hence, further, immense volume of the documents in which the law is recorded. For in lieu of one comprehensive rule determining a *genus* of cases, we have many several and narrow rules severally determining the species which that *genus* includes.]

' And this inconvenience (for a reason which I have noticed above) is probably of the essence of judiciary law. So delicate and difficult is the task of legislation, that any comprehensive rule, made in haste, and under a pressure of business, would probably be ill adapted to meet the contemplated purpose. It is certain that the most experienced, and the most learned and able of our judges, have commonly abstained the most scrupulously from throwing out general propositions which were not as proximate as possible to the case awaiting solution: though the *ratio decidendi* (or ground or principle of decision) is necessarily a general position applying to a class of cases, and does not concern exclusively the particular case in question. . . .

' Seventhly: Wherever much of the law is judiciary law,

the statute law which 'coexists with it, is imperfect, unsystematic, and bulky.

'For the judiciary law is, as it were, the *nucleus* around which the statute law is formed. The judiciary law contains the *legal dictionary*, or the definitions and expositions (in so far as such exist) of the leading technical terms of the entire legal system. The statute law is not a whole of itself, but is formed or fashioned on the judiciary law, and tacitly refers throughout to those leading terms and principles which are expounded by the judiciary. . . .

'Wherever, therefore, much of the law consists of judiciary law, the statute law is not of itself complete, but is merely a partial and irregular supplement to that judiciary law which is the mass and bulk of the system. The statute law is not of itself an edifice, but is merely a set of irregular unsystematic patches stuck from time to time upon the edifice reared by judges. . . .

'Wherever, therefore, much of the law consists of judiciary law, the entire legal system, or the entire *corpus juris*, is necessarily a monstrous chaos : partly consisting of judiciary law, introduced bit by bit, and imbedded in a measureless heap of particular judicial decisions, and partly of legislative law stuck by patches on the judiciary law, and imbedded in a measureless heap of occasional and supplemental statutes.' (Vol. ii. pp. 359-370.)

'Since such' (continues Mr. Austin) 'are the monstrous evils of judicial legislation, it would seem that the expediency of a Code, or of a complete or exclusive body of statute law, will hardly admit of a doubt. Nor would it, provided that the chaos of judiciary law and of the statute law stuck patchwise on the judiciary could be superseded by a *good code*. For when we contrast the chaos with a positive code, we must not contrast it with the very best of possible or conceivable codes, but with the code which, under

the given circumstances of the given community, would probably be the result of an attempt to codify.' The expediency of codification at a particular time and place depends on the question, 'Are there men, then and there, competent to the task of successful codification?' The difficulty of the work no one feels more strongly, or has stated more emphatically, than Mr. Austin. He considers 'the technical part of legislation incomparably more difficult than what may be styled the ethical;' holding it 'far easier to conceive justly what would be useful law, than so to construct that same law that it may accomplish the design of the law-giver:'* an opinion which, in its full breadth of statement, we should hesitate to endorse. But it will readily be admitted that the two qualifications are different, that the one is no guarantee for the other, and that the talent which is merely instrumental is, in any high degree of perfection, nearly if not quite as rare as that to which it is subordinate.

The expediency, therefore, of codification in England and at the present time, Mr. Austin does not discuss; but he shows 'the futility of the leading or principal arguments which are advanced against codification, considered generally or in abstract.' Unhappily a great part of the matter which he delivered on this subject is missing from the manuscript. But its place is partly supplied by the abundant notes and memoranda relating to the subject, which have been found among his papers, and of which the 'Notes on Codification,' appended to the third volume, are but a part. We shall quote only one passage, which

belongs to the Lectures, and is reproduced in the pamphlet on the 'Study of Jurisprudence.' It is a reply to the common objection that statute law cannot include all cases. Mr. Austin shows that it can at least include all those which are covered by judiciary law.

'The current objection to codification is the necessary incompleteness of a code. It is said that the individual cases which may arise in fact or practice are infinite, and that, therefore, they cannot be anticipated, and provided for, by a body of general rules. The objection (as applied to statute law generally) is thus put by Lord Mansfield in the case of *Omichund and Barker*. (He was then Solicitor-General.) "Cases of Law depend upon occasions which give rise to them. All occasions do not arise at once. A statute very seldom can take in all cases. Therefore the common law that works itself pure by rules drawn from the fountains of justice, is superior to an act of parliament."

'My answer to this objection is, that it is equally applicable to all law; and that it implies in the partisans of judiciary law (who are pleased to insist upon it) a profound ignorance, or a complete forgetfulness, of the nature of the law which is established by judicial decisions.

'Judiciary law consists of *rules*, or it is merely a heap of particular decisions inapplicable to the solution of future cases. On the last supposition, it is not law at all: and the judges who apply decided cases to the resolution of other cases, are not resolving the latter by any determinate law, but are deciding them arbitrarily.

'The truth, however, is, that the general grounds or principles of judicial decisions are as completely law as statute law itself; though they differ considerably from statutes in the manner and form of expression. And being law, it is clear that they are liable to the very imperfection which is objected to statute law. Be the law statute or judiciary, it cannot anticipate all the cases which may possibly arise in practice.

'The objection implies, that all judicial decisions which are not applications of statutes are merely arbitrary. It therefore involves a double mistake. It mistakes the nature of judiciary law, and it confounds law with the *arbitrium* of the judge. Deciding arbitrarily, the judge, no doubt, may provide for all possible cases. But whether providing for them thus be providing for them by law, I leave it to the judicious to consider.

'If law, as reduced into a code, would be incomplete, so is it incomplete as not so reduced. For codification is the re-expression of existing law. It is true that the code might be incomplete, owing to an oversight of redactors. But this is an objection to codification *in particular*. . . .

'Repetition and inconsistency are far more likely, where rules are formed one by one (and, perhaps, without concert, by many distinct tribunals), than where all are made at once by a single individual or body, who are trying to embrace the whole field of law, and so to construct every rule as that it may harmonize with the rest.

'And here I would make a remark which the objection in question suggests, and which to my understanding is quite conclusive.

'Rules of judiciary law are not decided cases, but the *general* grounds or principles (or the *rationes decidendi*) whereon the cases are decided. Now, by the practical admission of those who apply these grounds or principles, they may be codified, or turned into statute laws. For what is that process of induction by which the principle is gathered before it is applied, but this very process of codifying such principles, performed on a particular occasion, and performed on a small scale? If it be possible to extract from a case, or from a few cases, the *ratio decidendi*, or general principle of decision, it is possible to extract from all decided cases their respective grounds of decisions, and to turn them into a body of law, abstract in its form, and therefore compact and accessible. Assuming that judiciary law is really law, it clearly may be codified.

‘I admit that no code can be complete or perfect. But it may be less incomplete than judge-made law, and (if well constructed) free from the great defects which I have pointed out, in the latter. It may be brief, compact, systematic, and therefore knowable as far as it goes.’ (Vol. ii. pp. 374-377.)

The ‘Notes on Codification’ contain, in substance, all that is required to meet any of the objections against codification generally, or in the abstract;* but their form is too completely that of a mere syllabus, to be acceptable to the general reader. We shall quote, however, as a specimen, and for its practical importance, one excellent passage, containing the author’s view of the real difficulties of codification, and the conditions necessary for rendering it advisable.

‘The great difficulty is, the impossibility that any one man should perform the whole. But if done by several, it would be incoherent, unless all were imbued with the same principles, and all versed in the power of applying them. The great difficulty, therefore, is to get a sufficient number of competent men, versed in common studies and modes of

* The most popular, though one of the most superficial, of the objections, is the supposed failure of existing codes, especially the French and the Prussian. To this Mr. Austin answers, substantially, two things: First, that the failure of the French and Prussian codes has been greatly exaggerated, and that, with all their defects, they are still vastly superior to the state of things which preceded them. Secondly, that in so far as those codes do fall short of what is required in a code, it is owing to defects which are obvious and avoidable, and, above all, because *they are not really codes*; for the Code Napoleon is without a single definition, and the Prussian Code has none that are adequate, so that the meaning of all the law terms had either to be fixed by judicial law, or ascertained by referring back to the old law which was supposed to have been superseded. Far from being any evidence against a code, those compilations are a most satisfactory proof of the great amount of good which can be done even by the merest digest.

reasoning. This being given, codification is practicable and expedient.

'Peculiarly technical and partial knowledge of English lawyers. No English lawyer is master even of English law, and has, therefore, no notion of that interdependency of parts of a system, on which its successful codification must depend.

'A code must be the work of many minds. The project must be the work of one, and revised by a commission. The general outline, the work of one, might be filled up by divers.

'All-importance in codification of the first intention. Till minds are trained, it will scarcely succeed. How the difficulty is to be surmounted. Necessity for men versed in theory, and equally versed in practice; or rather, of a combination of theorists and practitioners. Necessity for preliminary digests; or for waiting till successful jurists and jurisprudence are formed through effectual legal education.' (Vol. iii. p. 278.)

Having concluded the subject of Law in general, regarded under its different aspects, Mr. Austin proceeds to consider the parts of which a *corpus juris* is necessarily composed, and the mutual relations of those parts. As already observed, he adheres in the main, though with some not unimportant improvements, to the classification and arrangement of the Roman law; or rather of its modern expositors, who have carried out the ideas of the classical jurists with a precision still greater than theirs.

Mr. Austin gives excellent reasons for rejecting their primary division, followed by most modern writers, into public and private law, and shows how the various parts which compose the former of these should be disposed of.* This being set aside, the leading division is into what are termed by the Roman

lawyers, Law of Persons and Law of Things—*jus personarum* and *jus rerum*, strangely mistranslated by Hale and Blackstone into *rights* of persons and *rights* of things. The original expressions are extremely ill-chosen, and have been an *ignis fatuus* to law writers, both in ancient and modern times. The Law of Persons (agreeably to one of the meanings of the word *persona*) is the law of *Status* or conditions—of the rights and obligations peculiar to certain *classes* of persons, on whom a peculiar legal stamp has been set. And, in contradistinction, the Law of Things, is the law common to all persons, together with the peculiar laws relating to other classes of persons not so specially marked out from the rest. But this has seldom been properly understood by law writers. They have imagined that persons (*personæ*), in this acceptation, meant persons in the ordinary sense—human beings; and forgetting that in this sense all law, and all rights and obligations, relate to persons, they supposed that the Law of Persons, as distinguished from that of Things, ought to contain all law which deals with those interests of persons which have no (or but slight) reference to things. Hence Blackstone places in the Law of Persons what he calls Absolute Rights, being those which belong to all persons without exception, such as the right to life, to personal security, to reputation—rights which, looked at from the point of view of the Roman lawyers, belong even more pre-eminently than any others to the Law of Things.

Those jurists who have understood the meaning of the Roman lawyers more correctly than Blackstone, have exhausted their ingenuity in search of metaphysical reasons why some peculiarities of legal position have been accounted Status, and included in *jus per-*

sonarum, while others, equally marked and equally important, have been retained in the Law of Things. Mr. Austin minutely examines and criticizes these subtleties, and, after a full review of them, decides that the division has no logical or metaphysical basis at all. It rests solely on convenience.* Executors, heirs, trustees, proprietors, contractors, &c., are as much classes of persons as parents, guardians, infants, magistrates, and the like; yet they are never accounted status, and the laws which concern them are always included in the Law of Things. No reason can be given why the one group should, and the other should not, be detached from the general body of the law and placed apart, except that the laws relating to the one 'have no necessary coherency with the bulk of the legal system,' and need not, generally speaking, be taken into consideration in order to understand the law as a whole; while the others 'have such a coherency with the bulk of the legal system, that if they were detached from it the requisite continuity in the statement or exposition of it would be lost.

As much of the law, then, as relates to certain peculiar legal positions, is remanded to a separate branch, which naturally should be placed *after* the general law, or *jus rerum*. The Roman institutional writers, by placing the Law of Persons first, gave one among several proofs that even they had not a perfectly clear conception of the distinction which they had themselves drawn.

In proceeding to subdivide the Law of Things, Mr. Austin adopts from the Roman lawyers their principle of grounding the general division of the

* Vol. ii. p. 413.

corpus juris upon a classification of rights. But he selects as his primary division of rights (and of the corresponding duties) a distinction not specially recognised by those writers.

The Roman lawyers primarily divided rights into *jura in rem*, or rights availing against all the world, and *jura in personam*, or rights availing against determinate persons only.* Of the former, the right of dominion or property is the most familiar instance. My right of ownership in a thing, is constituted by a duty or obligation imposed on all persons not to deprive me of the thing, or molest me in its enjoyment. Of rights *in personam*, the most prominent example is a right by virtue of a contract. If B has contracted with A to deliver certain goods, A has a right, answering to the legal obligation on B, but the right is against B alone. Until they are delivered, A has acquired no right to the goods as against other persons. If the goods came into the possession of a third party, through (for example) a wrongful resale by B, A would still have his original right as against B, and might have a right to damages besides, but he could not by process of law recover the goods themselves from the new possessor. A's right, therefore, is not *in rem*, but *in personam*, meaning *in personam determinatam*. The distinction between these two classes of rights belongs to universal jurisprudence, for every system of law must establish rights of both kinds; and the difference between them is connected

* These phrases were devised by the modern civilians. The classical jurists expressed the same distinction by the ambiguous terms *dominium* (in the largest sense in which that word was employed) and *obligatio*, a name which, in the Roman law, is unfortunately given to rights as well as to obligations.

with practical differences in the legal remedies. Among rights *in rem* must be reckoned the right to life, to reputation, to the free disposal of one's person and faculties, to exemption from bodily harm or indignity, and to any external thing of which one is the legal owner. To these must be added the limited right in a thing owned by some one else, which is called *servitus* or easement, such as a right of way over another person's land.

Rights *in personam*, or availing against a determinate person or persons, are divided by Roman jurists into rights (in their unhappy phraseology *obligationes ex contractu*), and rights (or *obligationes*) *ex delicto*, with two miscellaneous appendages, rights *quasi ex contractu* and *quasi ex delicto*. By quasi-contracts are not to be understood *implied* contracts, differing from express ones only in that the engagement is signified by conduct instead of words. Such tacit engagements are real contracts, and are placed in the law of contract. The term quasi-contract applies to cases in which there has not been, and is known not to have been, any engagement, either express or tacit, but in which the ends of legislation require that the same legal obligations shall be imposed as if the party had entered into an engagement. The case commonly used as an illustration is *solutio indebiti*—the obligation of a person to whom a payment has been made under a mistake, to refund the amount. Obligations *quasi ex contractu* are, therefore, simply *miscellaneous* obligations which cannot be reduced to any of the other classes. The third class, obligations (or rights) arising from offences, is, we venture to say, a stumbling-block to all clear-headed persons when

they begin the study of the Roman law. Mr. Austin retains it, but suppresses the fourth class, *quasi ex delicto*, it being quite needless to have *two* repositories for merely miscellaneous obligations without any positive feature in common. The term quasi-contracts, rightly understood, includes them all. As Mr. Austin expresses it,* ‘one fiction suffices.’ ‘The terms are merely a sink into which such obligatory incidents as are not contracts, or not delicts, but beget an obligation *as if*, &c., are thrown without discrimination. And this is the rational view which Gaius has taken of the subject.’

Though Mr. Austin retains the class of rights *ex delicto*, it is here that his classification most materially deviates from that of the Roman jurists. Instead of making rights *ex delicto* a secondary, he makes them a primary class. Instead of co-ordinating them with rights from contract and from quasi-contract, as species of *jura in personam*, he opposes them to all other rights, *in rem* and *in personam* taken together. His division of rights in general, is into Primary, and what he terms Sanctioning, Rights. The characteristic of these is, that they exist only for the sake of the primary. Primary rights and duties have a legal existence only by virtue of their sanctions. But in order that the sanctions may be applied, legal provisions are necessary, by which other rights are created and duties imposed. These secondary rights and duties are the subject-matter of Penal Law and of the Law of Procedure. They correspond partly (though, as we shall see, not entirely) with the *obligationes ex delicto* of the Romans, and admit of being

classed as rights and duties arising out of offences. As such, they are again divided by Mr. Austin into 'Rights and Duties arising from Civil Injuries,' and 'Duties and other Consequences arising from Crimes.' The basis which the Roman jurists assumed for their division of rights in general—the distinction between rights *in rem* and *in personam*—is retained by Mr. Austin only for primary rights. The following table, abridged from one annexed to the author's Outline, will serve as a rough ground-plan of his distribution of the field of law:—

Law				
Law of Things			Law of Persons or Status	
Primary rights (and duties)			Sanctioning rights (and duties)	
Rights <i>in rem</i>	Rights <i>in personam</i>	Combinations of rights <i>in rem</i> and rights <i>in personam</i>	Rights and duties derived from Civil Injuries	Duties and other consequences arising from Crimes.
Rights <i>ex contractu</i>	Rights <i>quasi ex contractu.</i>			

The remaining Lectures are devoted to the examination and elucidation of the particulars included under these heads. And, with all their incompleteness (which, as with the broken arches in Addison's Vision, becomes greater as we approach the point where they cease altogether), their value to the student will be found to be very great. We would particularly direct attention to the treatment of *Dominium* or Property, in its various senses, with the contrasted conception of *servitus* or easement. The nature and boundaries of these two kinds of rights are made so transparently clear, that it requires some acquaintance with the speculations of jurists to be able to believe that any one could ever have misunderstood the subject.

But is the division and arrangement of law in general, expressed in the table, wholly unimpeachable? We do not mean in point of mere correctness. It satisfies the fundamental rules of logical division. It covers the whole subject, and no one part overlaps another. It affords an arrangement in which it is at least possible to lay out perspicuously the whole of the matter; and if the proper mode of ordering and setting out a body of law is to ground it upon a classification of rights, no better one for the purpose could probably be made.

But the purely logical requisites are not the only qualities desirable in a scientific classification. There is a further requisite—that the division should turn upon the most important features of the things classified; in order that these, and not points of minor importance, may be the points on which attention is concentrated. A classification which does this, is what men of science mean when they speak of a Natural Classification. To fulfil this condition may require, according to circumstances, different principles of division; since the most important properties may either be those which are most important practically, by their bearing on human interests, or those which are most important scientifically, as rendering it easiest to understand the subject—which will generally be the most *elementary* properties.

In the case now under consideration, both these indications coincide. They both point to the same principle of division. Law is a system of means for the attainment of ends. The different ends for which different portions of the law are designed, are consequently the best foundation for the division of it.

They are at once what is most practically important in the laws, and the fundamental element in the conception of them—the one which must be clearly understood to make anything else intelligible. Is, then, this requirement, of distinguishing the parts of the *corpus juris* from one another according to the ends which they subserve, fulfilled by a division which turns entirely upon a classification of rights?

It would be so, if the ends of different portions of the law differed only in respect of the different kinds of Rights which they create. But this is not the fact. The rights created by a law are sometimes the end or purpose of the law, but are not always so.

In the case of what Mr. Austin terms Primary Rights, the rights created are the very reason and purpose of the law which creates them. That these rights may be enjoyed is the end for which the law is enacted, the duties imposed, and the sanctions established.

In that part of the law, however, which presupposes and grows out of wrongs—the law of civil injuries, of crimes, and of civil and criminal procedure—the case is quite otherwise. There are, it is true, rights (called, by Mr. Austin, Sanctioning Rights) created by this portion of the law, and necessary to its existence. But the laws do not exist for the sake of these rights; the rights, on the contrary, exist for the sake of the laws. They are a portion of the means by which those laws effect their end. The purpose of this part of the law is not the creation of rights, but the application of sanctions, to give effect to the rights created by the law in its other departments. The sanctioning rights are merely instrumental to

the sanctions¹; but the sanctions are themselves instrumental to the primary rights. The filiation of the ideas, proceeding from the simple to the more complex, is as follows :—

1. Primary Rights, with the correlative Duties.
2. Sanctions.
3. Laws determining the mode of applying the Sanctions.
4. Rights and Duties established by those laws, for the sake of, and as being necessary to, the application of the Sanctions.

It appears from these considerations, that however suitable a groundwork the classification of rights may be for the arrangement of that portion of the law which treats of Primary Rights (commonly called the Civil Code)—in the Penal Code and Code of Procedure the rights thereby created are but a secondary consideration, on which it is not well to bestow the prominence which is given to them by carrying out into those branches the same principle of classification. We do not mean that rights *ex delicto* can be left out of the classification of rights for the purposes of the Civil Code. They are rights, and being so, cannot be omitted in the catalogue. But they should, we apprehend, be merely mentioned there, and their enumeration and definition reserved for a separate department, of which the subject should be, not Rights, but Sanctions. If this view be correct, the primary division of the body of law should be into two parts. First, the Civil Law, containing the definition and classification of rights and duties : Secondly, the law of Wrongs and Remedies. This last would be subdivided into Penal Law, which treats of offences and

punishments, and the law of Procedure. If this were a mere opinion of our own, we should hesitate to assert it against a judge in all respects so much more competent as Mr. Austin; but if his great authority is against us, we have with us that of Bentham, James Mill, and the authors of, we believe, all modern codes.

Not only does this more commonplace distribution and arrangement of the *corpus juris* appear to us more scientific than Mr. Austin's; we apprehend that it is also more convenient. Mr. Austin, in fact, has been driven, by the plan he adopted, to the introduction of a logical anomaly, which he himself acknowledges. There are, as he rightly holds, legal duties which are absolute, that is, which have not only for their ultimate but for their immediate and direct object the *general* good, and not the good of any determinate person or persons, and to which, therefore, there are no correlative rights. Now, in a classification grounded wholly on rights, there is no place for duties which do not correspond to any rights. It being impossible to class these duties with *jura in rem* or *in personam*, Mr. Austin treats of them under the head of Sanctioning Rights. The difficulty, however, is not in knowing under what kind of rights to place them, but in placing them under rights at all. Duties which answer to no rights, have no more natural affinity with Sanctioning than they have with Primary rights. Why then is this, as it undoubtedly is, their proper place in the classification? Because, though the duties have no affinity with rights, the wrongs which are violations of those duties have an affinity with the wrongs which are violations of rights. Violations of

absolute duties are Crimes; many violations of rights are also Crimes; and between crimes of these two sorts there is no generic difference which it is necessary that either penal law or criminal procedure should recognise. Now, if the second great division of the law is regarded (which we think it ought to be) as conversant not directly with Rights, but with Wrongs, the wrongs in question, which are violations of absolute duties, take their place among other wrongs as a matter of course. But in a classification grounded on Rights, they are altogether an anomaly and a blot. There is no place marked out for them by the principle of the classification; and to include them in it, recourse must be had to a second principle, which, except for that purpose, the classification does not recognise. It has been seen in the table, that, in the second division of Mr. Austin's Sanctioning Rights, he drops rights altogether, and speaks of 'duties and other consequences.'

But this is not the only, nor the greatest objection which may be made, both on the ground of scientific symmetry and of practical convenience, against the place assigned by Mr. Austin to the law of Wrongs and Remedies. A still stronger objection is manifest from a mere inspection of the table. It interpolates the entire subjects of Penal Law and Procedure between the general Civil Law of Things and the Law of Status; that is, between two subjects so closely allied, that after a strenuous application of his powerful intellect to the subject, Mr. Austin was unable to draw a definite line, or find any essential or scientific difference between them; and was induced to separate them at all, only by the convenience of treating the

genus first, and a few of its more complex species afterwards. As he himself says,* the law of any and of all Status is 'indissolubly connected with that more general matter which is contained in the Law of Things.' These two portions of law are conversant with the same general ideas—namely, rights and their definitions (to a great degree even with the same kinds of rights): and one of them is but a kind of appendix or extension of the other, so that there is often a doubt in which compartment a particular chapter or title of the law may best be placed; yet the one is put at the beginning of the *corpus juris*, the other at the end, and between them lies all that great portion of the law which has to do with the subsequent considerations of Offences, Punishments, Judicature, and Judicial Procedure. We cannot think that this is a mode of arrangement which would have approved itself to Mr. Austin's, on such subjects, almost infallible judgment, had he ever completed his Course.

It may be remarked that, though the arrangement which we have criticized was founded on that of the classical Roman jurists, the criticism is not fairly applicable to those jurists themselves. According to the plan of their treatises, they had no alternative. They could not treat of delicts under any other form than that of '*obligationes quæ ex delicto nascuntur*.' For, as Mr. Austin himself observes, their institutional writings were solely on *private* law. Public law was, it is uncertain for what reason, excluded. But crimes, and criminal procedure, belonged to their conception of Public law. Of these, therefore, they had

not to treat. Civil procedure they did treat of; but they placed it in a branch apart, which was neither *jus rerum* nor *personarum*, but a third division co-ordinate with them, called *Jus Actionum*. There remained only the law of civil injuries. Now, the specific character which distinguishes civil injuries from crimes is that, though the sanction is in both cases the leading idea, the mode in which, in the case of civil injuries, the sanction is applied, is by giving to the injured party a right to compensation or redress, which, like his other rights, he may exercise or forego at his pleasure. It is evident that there is not in this case the same impropriety as in the case of crimes or of procedure, in considering the right created as the real purpose of the law. It is true that, even in this case, another purpose of the law is punishment; but the law is willing to forego that object, provided the injured person consents to waive it. The right, therefore, of the injured person, in this particular class of injuries, might without absurdity be treated as the principal object. Being a right availing only against determinate persons—namely, the offender or his representatives—it is a right *in personam*, or, in the language of the classical jurists, an *obligatio*; and its particular nature afforded no reason why it should not, in an arrangement in all other respects dictated by the exigencies of the civil code, take its place where alone, in such an arrangement, a place could be assigned to it—namely, under the general head of *Jura in Personam*, as a sub-species. But this, though it

The single title appended to Justinian's Institutes, *De Publicis Judiciis*, is supposed to have been an afterthought, and to have had no chapter corresponding to it in the institutional treatises of the classical jurists.

accounts for the place assigned in the Roman law to '*obligationes quæ ex delicto nascuntur*,' forms no reason for applying the same arrangement to the whole law of wrongs and remedies, and making it the basis of a division including the entire field of the *corpus juris*—crimes, punishments, civil and criminal procedure, among the rest.

After treating of *dominium* in the narrower sense in which it is opposed to *servitus*—a right to use or deal with a thing in a manner which, though not unlimited, is indefinite, as distinguished from a right to use or deal with a thing in a manner not only limited but definite—Mr. Austin proceeds to treat of rights limited or unlimited as to duration; of rights vested and contingent; and of *dominium* or property in the more emphatic sense in which it denotes the largest right which the law recognises over a thing—a right not only indefinite in extent and unlimited in duration, but including the power of alienating the thing from the person who would otherwise take it by succession. The Lectures finally break off, where they were interrupted by ill health, in the middle of the important subject of Title. There is no finer specimen of analytical criticism in these volumes than the comment (in the Notes to the Tables) on the erroneous and confused notions which the Roman jurists connected with their distinction between *Titulus* and *Modus Acquirendi*.

It cannot be too deeply regretted that, through the combined effect of frequently-recurring attacks of depressing illness, and feelings of discouragement which are vividly reproduced in the touching preface

of the editor, Mr. Austin did not complete his Lectures in the form of a systematic treatise. We are fully persuaded that, had he done so, the result would have proved those feelings of discouragement to be ill grounded. The success of the first volume, by no means the most attractive part of the Course, is a proof that even then there was in the more enlightened part of the legal profession a public prepared for such speculations; a public not numerous, but intellectually competent—the only one which Mr. Austin desired. Had he produced a complete work on jurisprudence, such as he, and perhaps only he in his generation, was capable of accomplishing, he would have attracted to the study every young student of law who had a soul above that of a mere trader in legal learning; and many non-professional students of social and political philosophy (a class now numerous, and eager for an instruction which unhappily, for the most part, does not yet exist) would have been delighted to acquire that insight into the rationale of all legal systems, without which the scientific study of politics can scarcely be pursued with profit, since juristical ideas meet, and, if ill understood, confuse the student at every turning and winding in that intricate subject. Before the end of the period to which Mr. Austin's life was prolonged, he might have stood at the head of a school of scientific jurists, such as England has now little chance of soon possessing. But the remains which he has left, fragmentary though much of them be, are a mine of material for the future. He has shown the way, solved many of the leading problems, and made the path comparatively smooth for those who follow. Among the younger

lawyers of the present time, there must surely be several (independently of the brilliant example of Mr. Maine) who possess the capacity, and can acquire the knowledge, required for following up a work so well begun; and whoever does so will find, in the notes and miscellaneous papers which compose the latter part of the third volume, a perfect storehouse of helps and suggestions.

It remains to say a few words on the question of execution. A work left unfinished, and never really composed as a book, however mature and well-digested its thoughts, is not a proper subject for literary criticism. It is from the first volume only that we are able to judge what, in point of composition, Mr. Austin would have made it. But all the merits of expression which were found in that volume reappear in quite an equal degree in the remainder, and even, as far as the case admitted, in the looser memoranda. The language is pure and classical English, though here and there with something of an archaic tinge. In expression as in thought, precision is always his first object. It would probably have been so, whatever had been the subject treated; but on one in which the great and fatal hindrance to rational thought is vague and indefinite phrases, this was especially imperative. Next after precision, clearness is his paramount aim; clearness alike in his phraseology and in the structure of his sentences. His pre-eminent regard to this requisite gives to his style a peculiarity the reverse of agreeable to many readers, since he prefers, on system, the repetition of a noun substantive, or even of an entire clause, in order to

dispense with the employment of the little words *it* and *them*, which he is quite right in regarding as one of the most frequent sources of ambiguity and obscurity in composition. If there be some excess here, it is the excess of a good quality, and is a scarcely appreciable evil, while a fault in the contrary direction would have been a serious one. In other respects Mr. Austin's style deserves to be placed very high. His command of apt and vigorous expression is remarkable, and when the subject permits, there is an epigrammatic force in the turn of his sentences which makes them highly effective.

Some readers may be offended at the harsh words which he now and then uses, not towards persons, to whom he is always, at the lowest, respectful, but towards phrases and modes of thought which he considers to have a mischievous tendency. He frequently calls them 'absurd,' and applies to them such epithets as 'jargon,' 'fustian,' and the like. But it would be a great injustice to attribute these vehement expressions to dogmatism, in any bad sense of the word—to undue confidence in himself, or disdain of opponents. They flowed from the very finest part of his character. He was emphatically one who hated the darkness and loved the light. He regarded unmeaning phrases and confused habits of thinking as the greatest hindrance to human intellect, and through it to human virtue and happiness. And, thinking this, he expressed the thought with corresponding warmth: for it was one of his noble qualities that while, whatever he thought, he thought strongly, his feelings always went along with his thoughts. The same *perseveridum ingenium* made him apply the same strong expressions to any

mistake which he detected in himself. In a passage of the Lectures,* he says, referring to a former lecture, 'I said so and so. But that remark was absurd; for it would prove,' &c. And in an extemporaneous passage, which some of his hearers may remember, he rated himself soundly for an erroneous opinion which he had expressed, and conjectured, as he might have done respecting a complete stranger to him, what might have been the causes that led him into so gross a misapprehension. That the occasional strength of his denunciations had its source in a naturally enthusiastic character, combined in him with an habitually calm and deliberate judgment, is shown by the corresponding warmth which marks his expressions of eulogium. He was one in whom the feelings of admiration and veneration towards persons and things that deserve it, existed in a strength far too rarely met with among mankind. It is from such feelings that he speaks of 'the godlike Turgot;' that, in mentioning Locke,† he commemorates 'that matchless power of precise and just thinking, with that religious regard for general utility and truth, which marked the incomparable man who emancipated human reason from the yoke of mystery and jargon;' that he does homage, in many passages of the Lectures, to the great intellectual powers of Thibaut and Von Savigny, and that, in a note at page 248 of his first volume, he devotes to Hobbes perhaps the noblest vindication which that great but unpopular thinker has ever received. That Mr. Austin was capable of similar admiration for the great qualities of those from whose main scheme

Vol. iii. p. 24.

† Province of Jurisprudence, vol. i. p. 150.

of thought he dissents, and whose authority he is oftener obliged to thrust aside than enabled to follow, is shown in many passages, and in none more than in some remarks on Kant's 'Metaphysical Principles of the Science of Law.'* We may add that his praises are not only warm, but (probably without exception) just; that such severity as is shown, is shown towards doctrines, very rarely indeed towards persons, and is never, as with vulgar controversialists, a substitute for refutation, but always and everywhere a consequence of it.

* 'A treatise darkened by a philosophy which, I own, is my aversion, but abounding, I must needs admit, with traces of rare sagacity. He has seized a number of notions, complex and difficult in the extreme, with distinctness and precision which are marvellous considering the scantiness of his means. For, of positive systems of law he had scarcely the slightest tincture, and the knowledge of the principles of jurisprudence which he borrowed from other writers, was drawn, for the most part, from the muddiest sources; from books about the fustian which is styled the "Law of Nature."'—(Vol. iii. p. 167.)

PLATO.

THE readers of Mr. Grote's 'History of Greece' were not likely to forget the hope held out in its concluding volume, that he who had so well interpreted the political life of Hellas would delineate and judge that great outburst of speculative thought, by which, as much as by her freedom, Greece has been to the world what Athens according to Pericles was to Greece, a course of education. It might have been safely predicted, that the same conscientious research, the same skilful discrimination of authenticated fact, from traditional misapprehension or uncertified conjecture, and the same rare power of realizing different intellectual and moral points of view, which were conspicuous in the History, and nowhere more than in the memorable chapters on the Sophists and on Sokrates, would find congenial occupation in tracing out the genuine lineaments of Plato, Aristotle, and their compeers. But the present work does more than merely keep the promise of Mr. Grote's previous achievements—it reveals new powers: had it not been written the world at large might never have known, except on trust, the whole range of his capacities and endowments. Though intellects exercised in the higher philosophy might well perceive that such a book as the 'History of Greece' could not have been produced but by a mind similarly disciplined, the in-

struction which lay on the surface of that great work was chiefly civic and political; while the speculations of the Grecian philosophers, and emphatically of Plato, range over the whole domain of human thought and curiosity, from etymology up to cosmogony, and from the discipline of the music-school and the gymnasium to the most vast problems of metaphysics and ontology. Many even of Mr. Grote's admirers may not have been prepared to find, that he would be as much at home in the most abstract metaphysical speculations as among the concrete realities of political institutions—would move through the one region with the same easy mastery as through the other—and would bring before us, along with the clearest and fullest explanation of ancient thought, mature and well-weighed opinions of his own, manifesting a command of the entire field of speculative philosophy which places him in the small number of the eminent psychologists and metaphysicians of the age.

The work of which we now give an account, though complete in itself, brings down the history of Greek philosophy only to Plato and his generation; but a continuation is promised, embracing at least the generation of Aristotle; which, by the analogy of the concluding chapters of the present work, may be construed as implying, an estimate of the Stoics and Epicureans. If to this were added a summary of what is known to us concerning the Pythagorean revival and the later Academy, no portion of purely Greek thought would remain untreated of; for Neoplatonism, an aftergrowth of late date and little intrinsic value, was a hybrid product of Greek and Oriental speculation, and its place in history is by

the side of Gnosticism. What contact it has with the Greek mind is with that mind in its decadence; as the little in Plato which is allied to it belongs chiefly to the decadence of Plato's own mind. We are quite reconciled to the exclusion from Mr. Grote's plan, of this tedious and unsatisfactory chapter in the history of human intellect. But such an exposition as he is capable of giving of Aristotle, will be hardly inferior in value to that of Plato. The latter, however, was the most needed; for Plato presents greater difficulties than Aristotle to the modern mind; more of our knowledge of the master, than of the pupil, is only apparent, and requires to be unlearned; and much more use has been made of what the later philosopher can teach us, than of the earlier.

Though the writings of Plato supply the principal material of Mr. Grote's three volumes, the portion of them which does not relate directly to Plato is of great interest and value. The first two chapters contain as full an account as our information admits, of the forms of Greek philosophy which preceded Sokrates; and the two which conclude the work recount the little which is known (except in the case of Xenophon it is very little) of the other 'Socratici viri' and their speculations: the Megaric school, commencing with Eukleides, the Cynic, with Antisthenes, the Cyrenaic or Hedonistic, with Aristippus. All these were personal companions of Sokrates, and their various and conflicting streams of thought did not flow out of a primitive intellectual fountain opened by him, but issued from the rock in different places at the touch of his magical wand; for it was his profession and practice to make others think, not to

think for them. Concerning Sokrates himself, though in one sense nearly the whole book relates to him, there is no express notice in these volumes, the narrative and estimate which we read in the 'History of Greece' being sufficient.

Some knowledge of the earlier Hellenic thinkers is necessary to a full understanding of Plato. Unfortunately the materials are defective, and almost wholly second-hand, a few fragments only of the original authors having been preserved by the citations of later writers. We are in possession, however, of what were regarded by their successors as the fundamental doctrines of each; but there is some difficulty in knowing what to make of them. These first gropings of the speculative intellect have so little in common with modern scientific habits, that the modern mind does not easily accommodate itself to them. The physical theories seem so absurd, and the metaphysical ones so unintelligible, that there needs some stress of thought to enable us to perceive how eminently natural they were. Multiplied failures have taught us the unwelcome lesson, that man can only arrive at an understanding of nature by a very circuitous route; that the great questions are not accessible directly, but through a multitude of smaller ones, which in the first ardour of their investigations men overlooked and despised—though they are the only questions sufficiently simple and near at hand, to disclose the real laws and processes of nature, with which as keys we are afterwards enabled to unlock such of her greater mysteries as are really within our reach. This process, which human impatience was late in thinking of, and slow in learning to endure, is

an eminently artificial one; and the mind which has been trained to it has become, happily for mankind, so highly artificialized, that it has forgotten its own natural mode of procedure. The natural man, in the words of Bacon's emphatic condemnation, *naturam rei in ipsa re perscrutatur*. He neither can nor will lay a regular siege to his object, approach it by a series of intermediate positions, and possess himself first of the outworks; he will make but one leap into the citadel: and since, to his freshly awakened curiosity, no inquiry seems worth pursuing which promises less than an explanation of the entire universe, he makes a plausible guess which explains or seems to explain a few obvious facts, and stretches or twists this into a theory of the whole. Such theories were thrown up in considerable number and variety by the early Hellenic mind. Mr. Grote has recounted what is known of them, and by the application of a clear philosophic intellect to the results of his own and of German erudition, has made out as much of their meaning as any one can well hope to do. To render that meaning intelligible without a considerable effort of thought, exceeds even his powers; for the terms which embody it have no exact equivalents in modern language, which, having fitted itself to more definite conceptions of the problems, and to a certain number of ascertained solutions, has got rid of many of the vaguenesses and ambiguities to which the early conjectural solutions were principally indebted for such plausibility as they possessed.

These early theories, as we said, may be distinguished into physical and metaphysical, though the physical hypothesis could not always dispense with metaphy-

sical aid, and the metaphysical ones were employed to account for physical phenomena. In the physical, some one or more substances familiar to experience were assumed as the element or elements which, variously transformed, are the material of the entire universe; and all the phenomena of nature were supposed to be produced by the powers, properties, or essences of these elements, or by hidden forces residing in them. Thales ascribed this cosmic universality to water, Anaximenes to air: we must remember that the ancients called many things water and air which are not so styled in modern physics. Empedokles explained all things by the mixture and mutual action of earth, water, air, and fire. These material substances were usually supposed to require the concurrence of certain abstract entities called Wet and Dry, Cold and Hot, Soft and Hard, Heavy and Light, &c., which were the immediate if not ultimate agents in the generation of phenomena.* It would be a mistake were we to imagine that these and similar hypotheses were really absurd, until proved so by the subsequent course of inductive investigation. A more artful examination of nature has since shown that the supposed elements are not real elements but compounds, and that the generalized properties, which were mistaken for causative agencies, are the products of incorrect generalization and abstraction—*notiones temerè à rebus abstractæ*. But this was not, and could not be, known at the time when the hypotheses were framed. In the meanwhile, they served as first steps in that comparison of phe-

* Τὰ πάντ' ἀρχαὶ τῶν ὄντων, 'an axiom,' says Mr. Grote (vol. i. p. 15, note), 'occupying a great place in the minds of the Greek philo-

nomena in respect of their likenesses and differences, which is the preparation for the discovery of their laws; and the process of applying the hypotheses to the explanation of facts other than those which had suggested them, was continually bringing into view fresh points of likeness and difference, and laying the foundation for less imperfect hypotheses. The metaphysical theories, on the other hand, which grounded their conception of the universe not on physical agencies, but on the largest and vaguest abstractions—the One, the Same, the Different, that which Is, that which Becomes—seem, to us, not so much erroneous as unmeaning: we find it difficult to conceive what can have been in the thoughts of men who could offer matter like this as an explanation of anything. By *we*, must be understood the physicists, the experimentalists, the Baconians; since the German Transcendentalists find much more signification in these than in the physical hypotheses. For, indeed, their Ontology is essentially a return to this first stage of human speculation—a reproduction of the same methods, the same questions, and to a great degree the same answers, sometimes under a superficial varnish of modern inductive philosophy. Hegel moves among the same vague abstractions as the earliest tyros in metaphysical thought; his dialectics recall the Parmenides of Plato's dialogue, while his substantive doctrines are in great part a reproduction of Herakleitus. If we turn back to Anaximander, the earliest known speculative philosopher after his townsman Thales, we find already the fundamental notions of Transcendentalism. 'He adopted* as the

* Grote, vol. i. p. 5.

foundation of his hypothesis a substance which he called the Infinite or Indeterminate. Under this name he conceived Body simply, without any positive or determinate properties, yet including the fundamental contraries Hot, Cold, Moist, Dry, &c., in a potential or latent state, including further a self-changing and self-developing force, and being moreover immortal and indestructible. By this inherent force, and by the evolution of one or more of these dormant contrary qualities, were generated the various definite substances of nature—Air, Fire, Water, &c.' We have here the fundamental antithesis of the Transcendentalists, Matter and Form; while the conception of an abstract Body, devoid of properties, but with a potentiality of evolving them from itself by an indwelling force, is the transcendental Noumenon, as contrasted with Phænomenon. Again, the Ens of Parmenides, Being in General, 'which is always, and cannot properly be called either past or future,' which is not 'really generated or destroyed, but only in appearance to us, or relatively to our apprehension,' which 'is essentially One, and cannot be divided,'* what is it (as Mr. Grote remarks†) but the Absolute of the modern Ontologists? a little in advance of them however, for the Eleatic philosopher left to his Absolute one quality cognisable by man, that of Extension, but the Transcendentalists refuse it even that, and yet maintain (some of them at least) that it is knowable. Even the almost Asiatic mysticism of Pythagoras respecting Number, has, as Mr. Grote points out,‡ its exact equivalent in German nineteenth-century philosophy. When numbers, mere

* Grote, vol. i. p. 21.

† Ibid. p. 22.

‡ Ibid. p. 10, *note*.

abstract properties of things, are mistaken for actual things, they are soon supposed to exert powers, and have as good a chance as anything else of finding a philosopher to instal them as the ruling power of the universe.

Both these veins of speculation—the physical and the metaphysical—were temporarily thrown into the shade by the new turn given to the philosophic mind by Sokrates: but for a short time only; for the ambitious striving for a theory of the universe reappears in its most metaphysical form in the later productions of his greatest disciple, Plato. The originality of Sokrates, which was of the highest order, consisted chiefly in his method. Yet his principal instrument had been in part prepared for him by the pupil of Parmenides, Zeno of Elea, who * stands announced on the authority of Aristotle as the inventor of dialectic; that is, as the first person, of whose skill in the art of cross-examination and refutation conspicuous illustrative specimens were preserved. The speciality of Zeno consisted in bringing prominently forward the difficulties and objections to which a theory was liable: not in the modern manner, by producing facts inconsistent with it, but rather by tracing its consequences, and reducing it to a logical contradiction; a mode of arguing which he more particularly employed against those who opposed his master's doctrine of the Absolute and Indivisible One, and maintained with Herakleitus that the universe is not One but Many. The celebrated paradoxes by which Zeno is best known, his arguments against the reality of Motion, Mr. Grote† considers neither as sceptical fallacies nor

* Grote, vol. i. p. 96.

† Ibid. pp. 103, 104.

logical puzzles, but as *bonâ fide* arguments, not intended to disprove motion as a phenomenal fact, but to assert its relative character, as a state of our own consciousness—incapable of being, in any true and consistent meaning, predicated of the, *Ens Unum*, or Absolute, which the Parmenidean doctrine regarded as immoveable. However this may be, these arguments were quite in keeping with the vocation of Zeno for what Mr. Grote happily terms the negative arm of philosophy—that which tests the truth of theories by the difficulties which they are bound to meet; and if he often mistook verbal difficulties for real, this was inevitable at first, and Plato frequently did the same.

It was reserved for Sokrates, and for Plato, who, whether as the interpreter or continuator of Sokrates, can never be severed from him, to exalt this negative arm of philosophy to a perfection never since surpassed, and to provide it with its greatest, most interesting, and most indispensable field of exercise, the generalities relating to life and conduct. These great men originated the thought, that, like every other part of the practice of life, morals and politics are an affair of science, to be understood only after severe study and special training; an indispensable part of which consists in acquiring the habit of considering, not merely what can be said in favour of a doctrine, but what can be said against it; of sifting opinions, and never accepting any until it has emerged victorious over every logical, still more than over every practical objection. These two principles—the necessity of a scientific basis and method for ethics and politics, and of rigorous negative dialectics as a part of that method, are

the greatest of the many lessons to be learnt from Plato; and it is because the modern mind has in a great measure laid both these lessons, especially the latter of them, aside, that we regard the Platonic writings as among the most precious of the intellectual treasures bequeathed to us by antiquity. Mr. Grote is of the same opinion, and has rendered, by the work before us, an inappreciable service, in facilitating the study to those who can read the original, and making the results accessible to those who cannot.

He first relates the biography of Plato, as far as it can be constructed from the extant authorities. He then treats of the Platonic Canon; and after a comparison and ponderation of evidence, equal in merit to any in his History, accepts as works of Plato the entire list recognised by the Alexandrian critics, and admitted by all scholars until for the first time disputed by German editors and commentators in the present century. A chapter is next devoted to a general view of the Platonic writings; and the remainder of the work (except the final chapters on the minor Sokratics), consists of a minute analysis and *compte rendu* of each dialogue separately. In this analysis are comprehended the following elements, which are far from being kept as separate in fact as we must keep them in description. First, a complete abstract of the dialogue, omitting no idea, and no important development. Attention is next drawn to the light which the dialogue throws on Plato's doctrine or method, and the bearing which it has upon the author's general conception of Plato and his writings. Lastly, the thoughts on which the particular dialogue turns, or which are struck out in the course of it, are disen-

tangled from the context, and critically examined, sometimes at considerable length, both from Plato's point of view and from the author's; and when the verdict is adverse, we are shown the author's own view of the same questions, and its justification. The book is thus a perfect treasury of instructive discussions on the most important questions of philosophy, speculative and practical; while at the same time it is a quite complete account of Plato. Plato himself, not anybody's interpretation of him, is brought before us. Nothing needs be taken on trust, except the fidelity of the abstract, which is perfect. We lose, of course, Plato's dramatic power, his refined comedy, and the magic of his style, the reproduction of which (could any one hope to succeed in it) would be the work, not of an expositor, but of a translator. But the thoughts are there, exactly as they are, and exactly where they are, in the Platonic writings. The account of each dialogue is thus a kind of complete work in itself—a plan necessarily involving much repetition, as the same idea or Platonic peculiarity, being manifested in several dialogues, gives fresh occasion for the same line of remark. These repetitions have been censured by some critics from a literary point of view, as signs of want of skill in composition; but this is to mistake the author's purpose. He does not lay himself open to the reproach from carelessness or awkwardness; he altogether disregards and defies it. What would be imperfections in a picture of Plato addressed to the imagination, are merits in what is meant to be an aid or substitute for the study of the philosopher in detail. Mr. Grote intended the reader to judge of Plato for himself—to find in each chapter what he

would have found in the corresponding dialogue, together with all that is necessary for understanding it and estimating its value. His own opinions on Plato and the Platonic topics turn up often, because every dialogue contains fresh evidence bearing on them. The alternative was indeed open to him of using references instead of repetitions ; and had he cared more for his literary reputation, and less for his subject, he would have adopted it. But those who read for instruction will generally prefer that the things they need to be reminded of should be told over again in a form and language adapted to the special occasion, rather than be compelled to search for them in another chapter, where they are exhibited in a quite different framework of circumstances. Even in an artistic point of view, it is too narrow a conception of art, to exclude that which produces its effect by an accumulation of small touches. Besides, many of Mr. Grote's views being contrary to received opinion, he was bound to give some idea of the mass of evidence on which they rest. Those who find it tiresome to have this evidence noted *en passant* where it occurs, would have far more reason to complain if it had been culled out and laid in a single heap, in which case we may surmise that few of them would have taken the trouble even to look at it.

In truth, there are few, if any, ancient authors concerning whose mind and purpose so many demonstrably false opinions are current, as concerning Plato ; and there is probably no writer, of merit comparable to his, and of whom so many writings survive, who leaves us in so much real uncertainty respecting his opinions. His works—except a few letters, which

(allowing them, with Mr. Grote, to be authentic) were written late in life, and have mostly a biographic rather than a philosophical interest—are exclusively in the form of dialogue; and he himself is never one of the interlocutors. Not one of the opinions contained in them is presented as his own, nor in any connexion with himself. There certainly is, in almost every dialogue, one principal speaker, who either as confuter or instructor carries off the honours of the discussion. But this chief speaker, in the great majority of cases, is not a fictitious or unknown person, who could only be looked on as the author's own spokesman, but a philosopher with a well-marked intellectual individuality of his own, and regarded by Plato himself with the deepest reverence. The question arises, how far the opinions put in the mouth of Sokrates are those of the real Sokrates, or of Plato speaking in his name? and if the former, whether Plato desired to be considered as adopting them? But, again, Sokrates, though generally the leading speaker, is not always so. In one dialogue, the *Parmenides*, he takes part in the discussion, but only to be powerfully confuted by that veteran philosopher. In the *Sophistes* and the *Politikos* he is a mere listener, while the place usually filled by him is occupied by a nameless stranger from Elea; though these two dialogues are an avowed continuation of the *Theætetus*, in which Sokrates takes the leading part. In *Timæus* and *Kritias*, the persons bearing those names are the teachers, and Sokrates an approving and admiring hearer. In the *Leges* and *Epinomis* he does not appear at all. Some reason there must have been for these diversities, but it neither shows itself in the dialogues, nor is known

by external evidence. All this would have been of little consequence, if the dialogues had exhibited a consistent system of opinions, always adhered to and always coming out victorious. But so far is this from being the case, that the result of a large proportion of them is merely negative, many opinions in succession being tried and rejected, and the question finally left unsolved. When an opinion does seem to prevail, it almost always happens that in some other dialogue that same opinion is either refuted, or shown to involve difficulties which, though frequently passed over, are never resolved. Some of the ancient critics were hence led to suspect that Plato had, as his master professed to have, no positive opinions; a supposition for which plausible arguments might be drawn from many of the dialogues, but which is quite inconsistent with the spirit of others. Besides, a philosopher who for nearly forty years lectured in open school to numerous audiences, must have had something positive to teach them: mere negation and confutation raise up imitators, but not disciples.

To these various puzzles the German editors and critics add another—namely, which of the writings ascribed to Plato are really his own. They relieve their author from the responsibility of contradictory opinions, by rejecting many dialogues as spurious, on account of something in them that is inconsistent with what is said in some other dialogue, or with what the critic is of opinion that Plato must have thought, or on the mere ground of inferior merit as a composition; for of Plato alone among writers or artists it seems to be imagined that he cannot have produced any work not equal to his finest. Mr.

Grote gains a triumphant victory over these critics, by exhibiting the overwhelming strength of the external testimony; showing that the rejections grounded on internal evidence proceed on an ideal of Plato which is a mere imagination of the critic; and pointing out that what are deemed evidences of unauthenticity in the rejected dialogues, are equally found in those which no one rejects, or could reject, since they are the type itself, which the others are thrown out for not conforming to. If we could add to our knowledge of what Plato's writings were, any authentic information respecting the order in which they were written, their inconsistencies might be found to correspond with successive stages of the progress of his own mind. But we have nothing on this subject save conjectures, each founded on an antecedent theory of the very matter which it is intended to clear up. The imperfect publicity which ancient writings obtained at their first appearance, consisting chiefly in being read aloud by the author, or by some one whom he had allowed to take a copy, makes it impossible to fix the chronological succession of a writer's works, when they are at all numerous. Several dialogues, by their allusions to historical events, give indication of a date to which it is supposed that they must have been subsequent; but even this supposition is uncertain, since, as we are informed by Dionysius, Plato retouched and corrected his writings up to the latest period of his life. When a dialogue professes to be a continuation of another dialogue, it was probably, though not certainly, the latest composed of the two. There is a presumption that the dialogues of mere search preceded those which expound and enforce some definite

doctrine; though, as one of the best German critics of Plato remarks,* this must be taken with a limitation, since he may have continued to produce dialogues of search after those of exposition began. Finally, direct testimony combines with internal probability in placing the *Leges* after the *Republic*, and near the end of Plato's career. This is nearly all the help which the works themselves give towards ascertaining the order of their composition; but we have a precious though limited item of information from Aristotle, respecting some metaphysical doctrines taught by Plato in his latest lectures, varying considerably from those we read in any of the dialogues, but towards which the line of thought in several of them seems to be leading up. We may, therefore, place those particular dialogues among the last of his compositions, and in the order of their approach to what we are told of his final teachings. This indication, agreeing with other internal evidence, gives the following as the latest terms of the series:—*Republic*, *Timæus* (with its unfinished appendage *Kritias*), *Leges*, with its supplement the *Epinomis*—the first probably separated by a considerable interval of time from the two last; and the *Philebus*, which we believe to be later than the *Republic*, probably coming in at some intermediate point.

Such being the paucity of direct evidence of Plato's opinions and purposes, there was no check to the latitude which readers and admirers might give themselves in deducing theories from the general tone of his writings. Much, no doubt, may be thence inferred, but it requires more than a knowledge of

* Ueberweg. See Grote, vol. i. p. 184.

Plato to distinguish what. Great men and great writers outlive the ideas, and most of the monuments of their time, and descend to posterity disjoined from the element in which they lived, and by which their thoughts ought to be interpreted. This is especially the case with great reformers. How continually we should misunderstand the deliverances of Luther, of Fichte, of Bentham, of Voltaire, of Rousseau, Fourier, Owen—may we add of Carlyle? if we knew nothing of their age, and of the men and things they attacked, but what they themselves tell us. Men who are in open quarrel with the whole body of their contemporaries, do not make the discriminations which posterity is bound to make; and their sweeping denunciations do not imply, from them, what such statements would mean from persons perhaps greatly their inferiors, but not standing so far off from the rest of the world as to efface all differences of distance. This caution has been disregarded and ignored in Plato's case; yet none of the great thinkers and writers who have come down to us require it more. When Plato says hard things of his countrymen, or of any class or profession among them, he is judging them by their divergence from his own standard, which was, no doubt, in many respects superior to theirs (though by no means so in all respects), but which he himself proclaimed to be a new and original one, and which certainly differed as widely from the modern, European or English standard as from the Athenian. But the denunciations which he levels at them from his own point of view, are almost always interpreted as from ours, and we fancy that their conduct and feelings, if known to us in detail, would

appear to us as blameable and contemptible as Plato deemed them; whereas we should find them, with a few superficial differences, very like our own; and it is most certain that Plato, if he returned to life, would be to the full as contemptuous of our statesmen, lawyers, clergy, professors, authors, and all others among us who lay claim to mental superiority, as he ever was of the corresponding classes at Athens; while they, on their part, would regard him very much as they regard other freethinkers, socialists, and visionary reformers of the world.

The opinion which commonly prevails about Plato is something like the following. The Athenians, and the other Greeks, had become deeply demoralized by a set of impostors called Sophists—pretenders to universal knowledge, and adepts at disconcerting simple minds by entangling them in a mesh of words—who corrupted young men of fortune, by denying moral distinctions, and teaching the art of misleading a popular assembly. The lives and intellectual activity of Sokrates and Plato had for their chief object to counteract the doctrines and influence of these men. They devoted themselves to vindicating the cause of virtue against immoral subtleties; but they came too late; the evil was too far advanced for cure, and the ruin of Greece was ultimately the consequence of the corruption engendered by the Sophists. In Philosophy proper, the speculations of Plato are supposed to have been guided by a similar purpose. He was the founder and chief of the Idealist or Spiritualist school, against the Materialistic or Sensational, which under the auspices of the Sophists, is asserted to have been generally prevalent; and was the champion of

the intuitive, or *à priori* character of moral truth, against what is regarded, by most of the Platonic critics, as the low and degrading doctrine of Utility.

Readers of Mr. Grote's History are acquainted with the strong case which is there made out against this common theory. Mr. Grote disbelieves the alleged moral corruption as a fact; and denies positively that the Sophists were the cause of it, or that the persons so called had any doctrines in common, much less the immoral ones imputed to them. He affirms that there is no evidence that any one of them taught the opinions alleged, and full proof that some taught the reverse: That the Sophists were not a sect, but the general body of teachers by profession, and, as is everywhere the case with professional teachers as a class, the moral and prudential opinions they taught were the common and orthodox ones of their country: That Plato's quarrel was precisely with those common opinions, and his antagonism to the Sophists a mere consequence of this; and his testimony, were it far stronger than it is, has no value against them, unless we are willing to extend our condemnation, as he did, to the ways of mankind in general. These views of Mr. Grote, which we are satisfied are true to the letter, receive continual confirmation from his survey of the Platonic writings; and we think it possible even to strengthen his argument, by showing that the case presented against the Sophists, on Plato's authority, is contradicted by Plato's own representation of them.

First, who were the Sophists? In the more lax use of the word, it was a name for speculative men in general. All the early philosophers whose theories

are presented in Mr. Grote's first two chapters, were called Sophists in ordinary parlance; especially when, as was probably the case with all of them, they taught orally, and took money for their teaching. M. Bueckh says of one of Plato's cotemporaries, the famous mathematician Eudoxus, 'he lived as a Sophist, which means, he taught and gave lectures.*' Against these men, as a body, no accusation is brought, nor had Plato any hostility to them. But the Sophists, emphatically so called, were those who speculated on human, as distinguished from cosmic, questions; who made profession of civil wisdom, and undertook to instruct men in the knowledge which qualifies for social or political life. As one whose whole time was passed in discussing these topics, Sokrates was counted among Sophists, both during his life and after his death. Æschines, in the oration against Timarchus, gives him that title. Isokrates, himself called a Sophist in an oration of Demosthenes,† alludes distinctly to Plato as being one.‡ A Sophist named Mikkus is introduced in the Platonic *Lysis* as a companion and eulogist (ἐπαινέτης) of Sokrates. But the most conspicuous Sophists cotemporary with Sokrates, the supposed chiefs of the immoral and corrupting teachers against whom he is said to have warred, were Protagoras, Prodikus, and Hippias. They are all three introduced into the great and many-sided Platonic composition called *Protagoras*, and are often referred to by name in other dialogues, Hippias even having two to himself. Now, while there is an un-

* Grote, vol. i. p. 123, note.

† *Contra Lacritum*. Grote, vol. iii. p. 178, note.

In his *Oratio ad Philippum*. See Grote, vol. iii. p. 462.

disguised purpose on Plato's part to lower the reputation of these men, and convict them of not understanding what they professed to teach, not a thought or a sentiment is ascribed to them of any immoral tendency, while they often appear in the character of serious and impressive exhorters to virtue.

With regard to Protagoras in particular, the discourse which he is made to deliver on the moral virtues is justly considered by Mr. Grote* as 'one of the best parts of the Platonic writings.' It springs out of a doubt raised, seriously or ironically, by Sokrates, whether virtue is teachable, on the ground that there are no recognised teachers of it, as there are of other things. Protagoras admits the fact, and says that the reason why there are no express teachers of virtue is that all mankind teach it. Artistic or professional skill in any special department needs only be possessed by a few, for the benefit of the rest; but social and civic virtue, consisting in justice and self-restraint, is indispensable in every one; and as the welfare of each imperatively requires this virtue in others, every one inculcates it on all. A highly philosophical as well as eloquent exposition follows,† 'of the growth and propagation of common sense—the common, established, ethical and social sentiment among a community; sentiment neither dictated in the beginning by any scientific or artistic lawgiver; nor personified in any special guild of craftsmen apart from the remaining community; nor inculcated by any formal professional teachers; nor tested by analysis; nor verified by comparison with any objective standard; but self-sown and self-asserting,

stamped, multiplied, and kept in circulation by the unpremeditated conspiracy of the general public—the omnipresent agency of King Nomos* and his numerous volunteers.’ This common standard of virtue Protagoras fully accepts. He takes it,† ‘for granted that justice, virtue, good, evil, &c., are known, indisputable, determinate data, fully understood and unanimously interpreted.’ He pretends not to set right the general opinion, but‡ ‘teaches in his eloquent expositions and interpretations the same morality, public and private, that every one else teaches; while he can perform the work of teaching somewhat more effectively than they:’ and§ ‘what he pretends to do, beyond the general public, he really can do.’ Sokrates (or Plato under his name) not accepting this common standard; and not considering justice, virtue, good, and evil, as things understood, but as things whose essence, and the proper meaning of the words, remain to be found out, of course contests the point with Protagoras; and bringing to bear on him the whole power of the Sokratic cross-examination, convicts him of being unable to give any definition or theory of these things; an incapacity which, in Platonic speech, goes by the name of not knowing what they are. The inability of Protagoras to discuss, and of

* *Nómos ὁ πάντων Βασιλεύς*, an expression of Pindar, cited by Herodotus (as well as by Plato himself in the *Gorgias*), and very happily applied, on many occasions, by Mr. Grote. ‘The large sense of the word *Nómos*, as received by Pindar and Herodotus, must be kept in mind, comprising positive morality, religious ritual, consecrated habits, and local turns of sympathy and antipathy,’ &c. (Grote, vol. i. p. 252, *note*.) *Nómos*, thus understood, includes all that is enjoined by law, custom, or the general sentiment, and all that is voluntarily accepted in reliance on these.

† Grote, vol. ii. p. 47.

‡ Ibid. p. 44.

§ Ibid. p. 73.

his opinions to resist logical scrutiny, is driven home against the Sophist with great force. But it is remarkable that Protagoras, in answering the questions of Sokrates, whenever required to choose between two opinions, one of which is really or apparently the more moral or elevating, not only chooses the loftier doctrine, but declares that no other choice would be agreeable to his past life, to which he repeatedly appeals as not permitting him to concede anything that would lower the claims or dignity of virtue; thus proving (as far as anything put into his mouth by Plato can prove it), not only that he had never taught other than virtuous doctrines, but that he had an established reputation both for virtuous teaching, and for an exemplary and dignified life. Finally, it is Sokrates who, in this dialogue, maintains the 'degrading' doctrine of Utilitarianism—at least the part most odious to its impugners, the doctrine of Hedonism, that Pleasure and the absence of Pain are the ends of morality; in opposition to Protagoras, to whom that opinion is repugnant; a reversal of the parts assigned to the two teachers by the German commentators, very embarrassing to some of them, who, rather than impute to Plato so 'low' a doctrine, resort to the absurd supposition that one of the finest specimens of analysis in all his writings is ironical, intended to ridicule a Sophist who is not even represented as agreeing with it. Let us add, that though at first sore under his confutation by Sokrates, Protagoras parts with him on excellent terms, and predicts for him, at the conclusion of the dialogue, great eminence in wisdom.

Prodikus of Keios has no dialogue devoted to him-

self, nor is Sokrates ever introduced as confuting him. Except a few touches of good-humoured ridicule on his subtle verbal distinctions, chiefly found in the Protagoras, and probably intended not so much for disparagement as to heighten the dramatic interest of that eminently dramatic dialogue; and except that he comes in for his share of the raillery kept up against the Sophists generally about the money they took from their pupils, Prodikus is treated by Plato with marked respect. Sokrates not only confesses intellectual obligations to him, but speaks of him more than once, at least semi-seriously, as his teacher; and is made to say in the Theætetus,* that in conversing with young men, he is apt at discerning those to whom he can be of no use, and judging by whom they will be benefited, and that he has handed over many to Prodikus—a sure proof that in Plato's opinion Prodikus was not only no corrupter of youth, but improving to them. As a matter of fact, we know that Prodikus was the author of the celebrated mythe or apologue called 'The Choice of Hercules,' one of the most impressive exhortations in ancient literature to a life of labour and self-denial in preference to one of ease and pleasure. The substance of this composition is preserved by Xenophon, who, in his 'Memorabilia,' introduces Sokrates repeating it to Aristippus, and declaring that it was a favourite lecture of Prodikus, one of those which he oftenest delivered;† and it bears a nearer resemblance than anything in Plato to the moral teachings ascribed by Xenophon to the real Sokrates. Prodikus, therefore,

* Plato, Theætetus, 151 B.

† "Οπερ δη και πλείστοις ἐπιδείκνυται.—Xen. Mem. lib. ii. cap. i.

is out of the question in any charge against the Sophists of immoral teaching or influence.

Hippias, a man conspicuous among his cotemporaries for the rare variety of his accomplishments, is treated by Plato more disrespectfully. The two dialogues called by his name not only exhibit him as (like Protagoras) unable to cope with Sokrates in close discussion, or give a philosophic theory of the subjects on which he was accustomed to discourse, but load him with ridicule, of a less refined character than usual with Plato, for his naïf vanity and self-confidence. It is possible that the real Hippias may have been open to ridicule on this account; but from any vestige of immoral or corrupt teaching the Hippias of Plato is as clear as his Protagorās and his Prodikus. In the Second Hippias, that Sophist is introduced as having just finished delivering, with great applause, an encomium on the character of Achilles in the Iliad, as contrasted with Ulysses in the Odyssey, asserting the great moral superiority of the former. Now, even the better Greeks did not usually give so marked a preference to the direct, frank, and outspoken type of character, over one which aimed at good objects by skilful craft and dissimulation; so that Hippias stands represented by Plato as one whose moral standard, so far as it differed from the common one, was exceptionally high and noble—as that of Sophokles is shown to have been by the character of Neoptolemus, contrasted with that of Ulysses in the ‘Philoktetes.’ The Sophist maintains this high estimate of veracity and sincerity throughout the dialogue; while the only ethical doctrine which is *malè sonans* is assigned to Sokrates himself, who, by a series of argu-

ments which Hippias is totally unable to refute, contends that one who speaks falsehood knowingly is less bad than one who speaks it unknowingly, and (as a general thesis) that 'those who hurt mankind, or cheat, or lie, or do wrong wilfully, are better than those who do the same unwillingly.'* Mr. Grote may well say that 'if this dialogue had come down to us with the parts inverted, and with the reasoning of Sokrates assigned to Hippias, most critics would probably have produced it as a tissue of sophistry, justifying the harsh epithets which they bestow upon the Athenian Sophists, as persons who considered truth and falsehood to be on a par—subverters of morality, and corrupters of the youth of Athens. But as we read it, all that which in the mouth of Hippias would have passed for sophistry, is here put forward by Sokrates; while Hippias not only resists his conclusions, and adheres to the received ethical sentiment tenaciously, even when he is unable to defend it, but hates the propositions forced upon him, protests against the perverse captiousness of Sokrates, and requires much pressing to induce him to continue the debate.'† It is obvious what advantage Melétus and Anytus might have derived from this thesis of Sokrates, if they had brought it up against him before the Dikasts; though it is merely a paradoxical form which, as we know from Xenophon, the real Sokrates gave to one of his favourite opinions, adopted and strenuously maintained by Plato, that the root of all moral excellence is knowledge.

Except these three distinguished men, the only other Sophists, in the more limited sense, who are

shown up by Plato, or brought by him into collision with Sokrates, are the two brothers in the Euthydemus; who are not represented as persons of any celebrity (though somebody of the name of Euthydemus is mentioned in the Kratylus in connexion with a philosophical paradox), but as old men who have passed their lives in teaching gymnastic and military exercises, together with rhetoric, and have only quite lately turned their attention to dialectics, or the art of discussion. We know nothing otherwise of these persons, who may have been entirely fictitious, and in any case the care taken to describe them as novices in their art precludes the supposition of their being intended as representative men. The purpose of the dialogue is obviously to rebut the accusation brought against Sokrates, and doubtless also against Plato, of being jugglers with words, and dealers in logical puzzles; which is done by exhibiting, on the one hand, a caricature of the most absurd logical juggling in the persons of Euthydemus and Dionysodorus, and on the other, an illustrative specimen of Plato's ideal of the genuinely Sokratic process—real Dialectic, contrasted with Eristic; the one merely embarrassing and humiliating an ingenuous student, by involving him through verbal ambiguities in obvious absurdities; the other, encouraging and stimulating him to vigorous exercise of his own mind in clearing his thoughts from confusion. Mr. Grote's comments on this dialogue, as on most of the others, are singularly interesting and valuable. It suffices here to observe that the purpose of the Euthydemus is not to discredit anybody, but to repel the attacks made on dialectic, by exhibiting the good form of it in marked opposition to the bad.

There is thus absolutely nothing in Plato's representation of particular Sophists that gives countenance to the reproaches usually cast upon them. There is, however, another class of teachers on whom he is more severe, and into whose mouth he does, though but in one instance, put immoral doctrines. These are the Rhetoricians, or teachers of oratory; a vocation sometimes combined with that of Sophist, but carefully distinguished from it by Plato, in that one of his works in which rhetoric is most depreciated. The types exhibited of the class are Gorgias, Polus, and Thrasymachus, all of whom Sokrates is introduced as triumphantly confuting. As there is thus something more of foundation for the common interpretation of Plato's attacks on the rhetoricians, than of those on the Sophists, it is worth showing how very little that something amounts to.

Rhetoric, being the art of persuasion, is necessarily open to the reproach that it may be used indifferently in behalf of wrong and right, and may avail to 'make the worse appear the better reason.' But so far was it in Greece from being taught or recommended for this purpose by its popular teachers, that Gorgias, the most celebrated of them, in the dialogue bearing his name, and intended to lay rhetoric and the rhetoricians prostrate in the dust, is represented as emphatically deprecating such a use of it. After extolling, in magnificent terms, the value of his art, the general power it gives of attaining objects, and the ascendancy it confers in the State, he proceeds to say that, like all other powers, it should be used justly; and as gymnastic teachers are not blamed, or expelled from the city, if any one trained by them abuses the bodily

strength he has acquired, by assaulting his parents or his friends, so the teachers of rhetoric are not in fault if their pupils make an unjust use of the valuable talent bestowed upon them; 'for they (the teachers) bestowed it to be rightly used, against the enemies of the State and against evil-doers, not in aggression, but in defence.' Thus far Gorgias; who, even in this most polemic dialogue, is treated with considerable respect, and has his dignity saved by being withdrawn from the Sokratic cross-examination when the conflict begins to grow serious. We may fairly presume that his teaching was as far above all moral reproach as that of Isokrates, the most famous and successful Grecian rhetorical teacher whose works have come down to us—to whose earnest and impressive inculcation of the moral virtues it is sufficient to allude.

The dispute is taken up by Polus, another teacher of rhetoric, represented as a much younger and very petulant man, between whom and Sokrates there is a discussion of a very dramatic character, with much vehemence on one side, and sarcasm and irony on the other. Sokrates asserts that to do injustice is the greatest of evils—a far worse one than to be unjustly done by: while Polus maintains, on the contrary, that an unjust man who escapes punishment, and practises injustice on so great a scale as to achieve signal success—especially he who can make himself despot of his city—is supremely enviable. Now this, which seems to be evidence on the side of the common theory, is really a strong confirmation of Mr. Grote's; for no reader of Plato can be unaware that what Polus here expresses (though disclaimed by the Platonic

Protagoras as a vulgar prejudice*) was the received opinion and established sentiment of the Grecian world. Polus appeals to it, and says—'Ask any of the persons present:' to which Sokrates answers—'Instead of refuting me by argument, you, like a pleader in a court of justice, overwhelm me with witnesses. No doubt all the testimony is on your side. If you ask Nicias' (the most morally respected citizen and politician of his time), 'or Aristokratēs, or the whole family of Pericles, or any family you think fit—in short, any Athenian or any foreigner, they will all assent; but I, one man, do not assent, and the only witness I will call is yourself; unless I can convince *you* that I am in the right, I shall consider myself to have done nothing.' Similar evidence of the universal opinion appears at every turn in the Platonic dialogues. Whether it is the ambitious and unprincipled Alcibiades, or the youthful and inquiring Theages, or the two grave and reverend elders from Crète and Lacedæmon who figure in the *Leges*, they all speak with the same voice: the usurping despot, and every one who is eminently successful in injustice, is a man to be envied—such a man (they usually add) as we, and all the world, and you yourself, Sokrates, if you could; would wish to be. Sokrates claims complete originality in the contrary opinion, that injustice is an evil, and the greatest that can befall any one—a doctrine which, through the teachings of Plato himself, of the Stoics, and of some of the forms of Christianity, has grown so familiar to us, that it has become a truism, and even a cant; and moderns are ready to conclude offhand that not to profess it implies a denial of moral

* Plato, *Protagoras*, 333 C, D, and 359 E.

obligation. But look at Polus himself in the dialogue. He is asked by Sokrates—‘You think it a worse thing (κάκιον) ‘to be injured than to injure. Do you also think it a baser, or more shameful thing (αἰσχρόν) ?’ Polus acknowledges the reverse : and Sokrates goes on to prove (by a fallacious argument, however), that whatever is more αἰσχρόν must be more κακόν. Now this distinction of Polus is exactly that which the Greeks drew. ‘Their opinion, that a wicked man would be happy if he could succeed in his wickedness, did not make them less abhor the bad man. He was to be restrained, punished, and, if need be, extirpated, not because his guilt was an evil to himself, but because it was an evil to others. He was looked upon as one who sought, and, if successful, obtained, good to himself by the damage and suffering of other people, and who was therefore not to be tolerated by them unless on compulsion. This is a different doctrine from the common one of modern moralists, but not an immoral doctrine ; and even if it were, the Sophists and rhetoricians did not invent it, but found it universal. The speeches of Glaukon and Adeimantus, in the Second Book of the Republic, set forth this view of the case. Both these speakers strenuously disapprove the unjust life, and are anxious to be convinced that it is a calamity to the evil-doer. But, according to them, all mankind, even those who most inculcate justice, inculcate it as self-sacrifice, describing the life of the just man as hard and difficult, that of the unjust as pleasant and easy. The very best of them represent justice as personally desirable only on account of the good reputation and social consideration which attend it, implying that one who

could acquire the reputation and rewards of justice without the reality, would be supremely fortunate, possessing the prize without the sacrifices, while he who had the reality, but missed the rewards, would be utterly miserable. Any man would be unjust if he possessed the ring of Gyges, which rendered the wearer invisible at pleasure. With this memorable testimony as to what was the general belief, it is mere ignorance to throw the responsibility on the Sophists and rhetoricians. We may add that even Polus is so far from being put in an odious light, that his petulance abates under the Sokratic cross-examination; he is not uncandid, does not obstinately resist conviction, and ends by confessing himself refuted. The speaker in this dialogue who really professes immoral doctrines, who denies that injustice is *αἰσχρὸν*, and asserts that right and wrong are matters of convention, is Kallikles: neither a Sophist nor a rhetorician, but an active and ambitious political man, who, though he frequents the rhetoricians, proclaims his contempt of the Sophists, and represents a type of character doubtless frequent among Grecian politicians, though we may doubt their having ever publicly professed the principles they acted on.

The other rhetorical teacher shown up by Plato is Thrasymachus in the Republic, who is presented as rude, overbearing, even insolent in his manner of discussing, and who undoubtedly is made to profess, with a not very material difference, essentially the same immoral doctrine as Kallikles. He is accordingly confuted and put to shame; but even Thrasymachus ends better than he began, and though he takes no share in the long sequel of the dialogue,

joins with others in pressing Sokrates to go on, and parts with him on friendly terms. This single exhibition of Thrasymachus, made, not by himself, but by Plato when he wants a spokesman for an immoral doctrine, is the solitary case that can be cited from Plato in support of the opinion which imputes immoral teaching to the Sophists; and Thrasymachus was not a Sophist, but a rhetorician.*

Nevertheless, it neither needs nor can be denied, not only that Plato had an unfavourable opinion of the Sophists generally, but that his writings contain much evidence of their being looked upon, in Athenian society, with a widespread sentiment of aversion. Their unpopularity may be accounted for, without supposing it to have been, in a moral point of view, deserved. In the first place, the disapprobation was far from being unanimous. Though the name Sophist was already a term of reproach, it was also one of praise: Plato himself† speaks of 'the genuine Sophistic art' (ἡ γένηται γενναία σοφιστική) as a thing which he cannot completely distinguish from something laudable, and asks, 'Have we not, in seeking for the Sophist, unexpectedly found the Philosopher?'‡ In another place, when speaking of the skilful adapta-

* In the *Leges*, certain persons are mentioned, in a style of invective, as maintaining the doctrines put into the mouths of Kallikles and Thrasymachus; but they are nowhere called Sophists, and seem to be identified with the physical inquirers who denied the sun, moon, and planets to be gods, and allged them to be γῆν καὶ λίθους (*Legg.* 886, D). As the person most notorious for asserting this was Anaxagoras, who has obtained from subsequent ages about the highest moral and religious reputation of all these early inquirers, we regard this denunciation by Plato as merely a specimen of that *odium theologicum* which was a stranger to his better days, but comes out forcibly in the *Leges*, his latest production.

† Plato, *Sophistes*, 231 B.

‡ *Ibid.* 253 C.

tions of Creative Power, he says that the gods are admirable Sophists. The term, when applied to any one, was an insult or a compliment according to the person who used it; like metaphysician, or political economist, or Malthusian, in our own day. And this double tradition was prolonged into the latest period of Grecian culture. It lasted even after the word philosopher had come into use as the designation which all kinds of speculative men took to themselves; when this name might have been expected to engross all the favourable associations, leaving only the unfavourable to the word sophist. In one of the dialogues of Lucian, who was cotemporary with Marcus Aurelius, the sophist is identified with the philosopher, and described as the chosen and professional inculcator and guardian of virtue.* Those who are chiefly brought forward by Plato as thinking ill of the Sophists, are either practical politicians, whose contempt for theorists is no rare or abnormal phenomenon in any age, or elderly and respectable fathers of families, who had passed through life with credit and success without the acquirements which they now found the younger generation running after. The character in Plato who exhibits the strongest example of mingled hatred and contempt for the Sophists, is Anytus, in the Menon. This man, a

* The supposed speaker is Solon, and he is celebrating to Anacharsis, in a strain like that of Pericles in his funeral oration, the excellence of the Athenian customs: ῥυθμίζομεν οὖν τὰς γνώμας αὐτῶν (of the youth), νόμους τε τοὺς κοινούς ἐκδιδάσκοντες, οἱ δημόσια πᾶσι πρόκεινται ἀναγινώσκειν μεγάλοις γράμμασιν ἅμα ἀναγγραμμένοι, κελείοντες ἅτε χρὴ ποιεῖν, καὶ ὧν ἀπέχεσθαι, καὶ ἀγαθῶν ἀνδρῶν συνούσιαι, παρ' ὧν λέγειν τὰ δέοντα ἐμμανθύνουσι, καὶ πράττειν τὰ δίκαια, καὶ ἐκ τοῦ ἴσου ἀλλήλοις συμπολιτεύεσθαι, καὶ μὴ ἐφίεσθαι τῶν αἰσχυρῶν, καὶ ὀρέγεσθαι τῶν καλῶν, βίαιον δὲ μηδὲν ποιεῖν. οἱ δὲ ἄνδρες οὗτοι, σοφισταί, καὶ φιλόσοφοι πρὸς ἡμῶν ὀνομάζονται.—(Luc. de Gymnasiis.)

politician of influence and repute, no sooner hears them mentioned than he bursts into a torrent of abuse, calling them people whom it is madness to have anything to do with, and whose presence no city ought to tolerate; though he admits, when questioned, that he has 'never conversed with any of them, nor has any personal knowledge of what they taught, but does not the less indignantly denounce them as 'corrupters of youth,' the charge on which afterwards, in conjunction with Melétus, he indicted Sokrates, with what result we all know. It is worth mentioning, that Xenophon* relates, on the authority of Sokrates himself, the origin of the offence which Anytus had taken against him: it was because he criticized the education which Anytus was giving to his son, saying that a man who sought for himself the greatest honours of the state ought to have brought up this promising youth to a higher occupation than his own business of a tanner. This is probably a fair example of the feeling which indisposed respectable elderly Athenians towards 'Sokrates the Sophist,' and towards the other Sophists. When the charge of corrupting youth comes to be particularized, it always resolves itself into making them think themselves wiser than the laws, and fail in proper respect to their fathers and their seniors. And this is a true charge: only it ought to fall, not on the Sophists, but on intellectual culture generally. Whatever encourages young men to think for themselves, does lead them to criticize the laws of their country—does shake their faith in the infallibility of their fathers and their elders, and make them think their own speculations

preferable. It is beyond doubt that the teaching of Sokrates, and of Plato after him, produced these effects in an extraordinary degree. Accordingly, we learn from Xenophon that the youths of rich families who frequented Sokrates, did so, for the most part, against the severe disapprobation of their relatives. In every age and state of society, fathers and the elder citizens have been suspicious and jealous of all freedom of thought and all intellectual cultivation (not strictly professional) in their sons and juniors, unless they can get it controlled and regulated by some civil or ecclesiastical authority in which they have confidence. But it had not occurred to Athenian legislators to have an established Sophistical Church, or State Universities. The teaching of the Sophists was all on the voluntary principle; and the dislike of it was of the same nature with the outcry against 'godless colleges,' or the objection of most of our higher and middle classes to any schools but denominational ones. They disapproved of any teaching, unless they could be certain that all their own opinions would be taught. It mattered not that the instructors taught no heresy; the mere fact that they accustomed the mind to ask questions, and require other reasons than use and wont, sufficed at Athens, as it does in most other places, to make the teaching dangerous in the eyes of self-satisfied respectability. Accordingly, respectability, as Plato himself tells us, looked with at least as evil an eye on Philosophers as on Sophists. Sokrates, in the *Apologia*, speaks of the reproach of atheism, of making the worse appear the better cause, and so forth, as the charges always at hand to be flung at those who philosophize; τὰ κατὰ

πάντων τῶν φιλοσοφούντων πρόχειρα ταῦτα. Xenophon also* calls the teaching of an art of words 'the common reproach of the multitude against philosophers.' There is nothing in all Plato more impressive than his picture, in the *Gorgias* and the *Republic*, of the solitary and despised position of the philosopher in every existing society, and the universal impression against him, as at best an useless person, but more frequently an eminently wicked one (*παμπονήρους, κακοῦς κᾶσαν κακίαν*). He takes pains to point out the causes which gave to this unfavourable opinion of philosophers a colour of truth, and admits that it was not unfrequently justified by the conduct of those who were so called; which is more than he ever says of the Sophists.

Plato's own dislike of the Sophists was probably quite as intense as that to which he testifies on the part of the Athenian public: but was it of the same nature? Did he regard them as corruptors of youth? Not if the Sokrates of the *Republic* expresses Plato's opinions. In one of the most weighty passages of that majestic dialogue, Sokrates is made to say—People fancy that it is Sophists and such people that are corruptors of youth; but this is a mistake. The real corruptor of the young is society itself; their families, their associates, all whom they see and converse with, the applauses and hootings of the public assembly, the sentences of the court of justice. These are what pervert young men, by holding up to them a false standard of good and evil, and giving an entirely wrong direction to their desires. As for the Sophists, they merely repeat the people's own opinions.

‘Do you imagine (he asks)*, like the many, that young men are corrupted by Sophists—that there are private Sophists who corrupt them in any degree worth talking about (*ὅτι καὶ ἄξιον λόγου*)? Are not the very men who assert this, themselves the greatest Sophists, educating and training in the most thorough manner both young and old, men and women, to be such as they wish them to be? Those fee-taking individuals whom they call Sophists; and regard as their rivals, teach nothing but these very opinions of the multitude, and call them wisdom.’ And it is these false opinions of the multitude, as he proceeds to show, which corrupt so many minds originally well fitted for philosophy, and divert them to the paths of vulgar ambition. If there is a class from whom he deems the multitude to have imbibed these false opinions, and whom he consequently makes accountable for them, it is the poets, who, in the religion of Hellas, were also the theologians.

Why, then, is Plato so merciless in running down the Sophists? The reasons are plain enough in many parts of his writings: let us look for them where we may be sure of finding them, in the dialogue devoted to defining what a Sophist is. The *Sophistes* is an elaborate investigation into the Sophist's nature and essence, and, besides its direct purpose, is intended as an example of the most thorough mode of conducting such investigations. From a succession of different points of view, Plato arrives at several definitions of the Sophist, some of which want so little of being complimentary, that he confesses a difficulty in distinguishing the Sophist from the Dialectician. Others

are condemnatory, but the grounds of condemnation which emerge are limited to two; the same which compose the definition by his pupil Aristotle, of a Sophist in the unfavourable sense: *χρηματιστὴς ἀπὸ φαινομένης σοφίας ἀλλ' οὐκ οὔσης*. The first and principal topic of disparagement (which recurs in almost every dialogue where they are mentioned) is that they took money for their teaching. And everything proves that whatever antipathy he had to the Sophists specially, as distinguished from other influential classes in Greece, was grounded on that circumstance alone. This will perhaps be hardly credible to many readers. In modern times, when everybody takes pay for everything (legislators and county magistrates alone excepted), and it is thought quite natural and creditable that men should be paid in money even for saving souls, it is difficult to realize the point of view from which Plato and Sokrates looked on this subject. Sokrates, we are told by Xenophon, compared those who sell their wisdom to those who sell their caresses,* and maintained that both alike ought only to be given in exchange for love. Nor is this inconsistent with the fact that Plato certainly, and Sokrates probably, though they took no fees, accepted presents from their admirers: for to minister to the needs of a friend was a duty of friendship; and the Platonic Sokrates† expresses his whole sentiment on the question by saying, that the teachers of any special art may consistently and reasonably demand payment for their instructions, because they profess to make

* Καὶ τὴν σοφίαν ὡσαύτως τοὺς μὲν ἀργυρίου τῷ βουλομένῳ πωλοῦντας, σοφιστὰς, ὥσπερ πόρνους, ἀποκαλοῦσιν.—(*Xen. Memor.* i. 6, 13).

† Plato, *Gorgias*, p. 519 C.

people good artists or artificers, not good men; but that it is the height of inconsistency in a professed teacher of virtue to grumble because those whom he has pretended to instruct do not pay him sufficiently, since his complaint of their injustice is the clearest proof that the instruction has been of no use.* Nor is it difficult to find arguments, tenable even from the modern point of view, which might be, and have been, brought to prove the mischief of erecting the commerce of ideas into a money-getting trade. In the brilliant dialogue entitled *Gorgias*, in which the hardest things are said that are to be found in all Plato both against the sophistic and the rhetorical profession, he classes them as two branches of one comprehensive, not art but knack, that of adulation (*κολακεία*). They attain their purposes, he affirms, not by making people wiser or better, but by conforming to their opinions, pandering to their existing desires, and making them better pleased with themselves and with their errors and vices than they were before. And is not this the really formidable temptation of all popular teaching and all literature? necessarily aggravated when these are practised for their pecuniary fruits. We may picture to ourselves Plato, judging from this point of view the teachers of the present day. An established clergy, he might say, are directly bribed to profess an existing set

* It is worth noting that the most renowned of the Sophists, Protagoras, according to Plato's representation of him, had anticipated this censure, and taken care that it should not be applicable to himself. For he is made to say that if any one to whom he had given instruction disputed its price, he made him go to a temple and declare on oath what he himself considered the instruction to be worth, and make payment on that valuation.—Plato, *Protagoras*, p. 328 B.

of opinions, whether they believe them or not, and however remote they may be from truth. The ministers of every non-established sect are no less bound by their pecuniary interest to preach, not what is true, but what their flocks already believe. Of lawyers it is unnecessary to speak, who must either give up their profession, or accept a brief without scruple from what they know to be the wrong side. Schoolmasters, and the teachers and governors of universities, must, on every subject on which opinions differ, provide the teaching which will be acceptable to those who can give them pupils, not that which is really the best. Statesmen, he might say, have renounced even the pretence that anything ought to be required from them but to give to the public, not what is best for it, but what it wishes to have. The press, especially the most influential part of it, the newspapers and periodicals—by what incessant evidence does it prove that it considers as its business to be of the same mind with the public; to court, assent to, adulate, Public Opinion, and instead of disagreeable truths, ply it with the things it likes to hear. There is so much groundwork of reality for a representation like this, that some in our own day draw the same practical inference with Plato, and think there should be no law of copyright, that writers may no longer be tempted to prepare opinions for the market, and no one may write aught but what he feels impelled to put forth from pure zeal for his convictions. We think this opinion wrong, not because nothing can be said for it, but because there is much more to be said on the opposite side. It is, however, a substantially correct expression of Plato's sentiments, and shows

that his bitterness against the Sophists for being paid teachers was far from being the mere sentimentality which we might be apt to think it.

The other ground of disapproval of the Sophists which comes out in the *Sophistes*, and wherever else Plato discusses them, is, that the doctrines in which they dealt were apparent, not real wisdom; Opinion only, and not Knowledge. Whoever is aware of what Plato meant by knowledge, and of the attitude which he and his master assumed towards what passed for such among their cotemporaries, will admit that what is here said of the Sophists was true; but not truer of them than of all other persons in that age. If there is one thing more than another which Plato represents Sokrates as maintaining, it is that knowledge, on the subjects most important to man, did not yet exist, though everybody was living under the false persuasion of possessing it. He, Sokrates, did not pretend to know anything, except his own ignorance; but inasmuch as other people did not know even that, Sokrates, who did, deserved the palm of wisdom assigned to him by the Delphian Oracle. In the *Apologia*, which is either the real speech of Sokrates, or Plato's idealization of his life and character, he represents himself as driven by a religious obligation to cross-examine all men, and discover if any of them had attained that real knowledge which he himself was conscious of not possessing. For this purpose, as he says, he sought the conversation of those who seemed, or were considered, wise; beginning with the politicians, all of whom he found to be in a state of gross ignorance, and in general more profoundly so in proportion to their reputation, but

puffed up in the extreme by a false opinion of their own knowledge. He next tested the poets, but found that though they composed splendid things, doubtless by a divine *afflatus*, they were unable to give any rational account of the works which, or of the subjects on which, they composed. Last, he tried the artificers, and these, he found, did possess real knowledge, each concerning his special art; but fell into the error of imagining that they knew other things besides, which false opinion put them on the whole in a worse condition than his own conscious ignorance. It is noticeable that he does not here mention the Sophists among those whom he had cross-examined, and convicted of not knowing what they pretended to know. It is evident, however, that one who had this opinion concerning all the world, would come first and most into collision with the teachers. Those who not only fancied that they knew what they knew not, but professed to teach it, would be the very first persons whom it would fall in his way to convict of ignorance; and this is the exact position of Plato with regard to the Sophists. He attacks them not as the perverters of society, but as marked representatives of society itself, and compelled, by the law of their existence as its paid instructors, to sum up in themselves all that is bad in its tendencies.

The enemy against whom Plato really fought, and the warfare against whom was the incessant occupation of the greater part of his life and writings, was not Sophistry, either in the ancient or the modern sense of the term, but Commonplace. It was the acceptance of traditional opinions and current sentiments as an ultimate fact; and bandying of the abstract

terms which express approbation and disapprobation, desire and aversion, admiration and disgust, as if they had a meaning thoroughly understood and universally assented to. The men of his day (like those of ours) thought that they knew what Good and Evil, Just and Unjust, Honourable and Shameful, were, because they could use the words glibly, and affirm them of this and of that, in agreement with existing custom. But what the property was, which these several instances possessed in common, justifying the application of the term, nobody had considered; neither the Sophists, nor the rhetoricians, nor the statesmen, nor any of those who set themselves up or were set up by others as wise. Yet whoever could not answer this question was wandering in darkness; had no standard by which his judgments were regulated, and which kept them consistent with one another; no rule which he knew, and could stand by, for the guidance of his life. Not knowing what Justice and Virtue are, it was impossible to be just and virtuous; not knowing what Good is, we not only fail to reach it, but are certain to embrace Evil instead. Such a condition, to any one capable of thought, made life not worth having. The grand business of human intellect ought to consist in subjecting these general terms to the most rigorous scrutiny, and bringing to light the ideas that lie at the bottom of them. Even if this cannot be done, and real knowledge be attained, it is already no small benefit to expel the false opinion of knowledge; to make men conscious of their ignorance of the things most needful to be known, fill them with shame and uneasiness at their own state, and rouse a pungent internal stimulus, summoning up all their

mental energies to, attack these greatest of all problems, and never rest until, as far as possible, the true solutions are reached. This is Plato's notion of the condition of the human mind in his time, and of what philosophy could do to help it; and any one who does not think the description applicable, with slight modifications, to the majority even of educated minds in our own and in all times known to us, certainly has not brought either the teachers or the practical men of any time to the Platonic test.*

The sole means by which, in Plato's opinion, the minds of men can be delivered from this intolerable state, and put in the way of obtaining the real knowledge which has power to make them wise and virtuous, is what he terms *Dialectics*; and the philosopher, as conceived by him, is almost synonymous with the *Dialectician*. What Plato understood by this name consisted of two parts. One is, the testing every opinion by a negative scrutiny, eliciting every objection or difficulty that could be raised against it, and demanding, before it was adopted, that they should be successfully met. This could only be done effectually by way of oral discussion; pressing the

* 'Such terms as Nature, Law, Freedom, Necessity, Body, Substance, Matter, Church, State, Revelation, Inspiration, Knowledge, Belief, are tossed about in the wars of words as if everybody knew what they meant, and as if everybody used them exactly in the same sense; whereas most people, and particularly those who represent public opinion, pick up these complicated terms as children, beginning with the vaguest conceptions, adding to them from time to time, perhaps correcting likewise at haphazard some of their involuntary errors, but never taking stock, never either inquiring into the history of the terms which they handle so freely, or realising the fulness of their meaning according to the strict rules of logical definition.'—*Max Müller, Lectures on the Science of Language, Second Series, pp. 526, 527.*

respondent by questions, to which he was generally unable to make replies that were not in contradiction either to admitted fact, or to his own original hypothesis. This cross-examination is the Sokratic Elenchus; which, wielded by a master such as Sokrates was, and as we can ourselves appreciate in Plato, no mere appearance of knowledge without the reality was able to resist. Its pressure was certain, in an honest mind, to dissipate the false opinion of knowledge, and make the confuted respondent sensible of his own ignorance, while it at once helped and stimulated him to the mental effort by which alone that ignorance could be exchanged for knowledge. Dialectics, thus understood, is one branch of an art which is a main portion of the Art of Living—that of not believing except on sufficient evidence; its function being that of compelling a man to put his belief into precise terms, and take a defensible position against all the objections that can be made to it. The other, or positive arm of Plato's dialectics, of which he and Sokrates may be regarded as the originators, is the direct search for the common feature of things that are classed together, or, in other words, for the meaning of the class-name. It comprehends the logical processes of Definition and Division or Classification; the theory and systematic employment of which were a new thing in Plato's day: indeed Aristotle says that the former of the operations was first introduced by Sokrates. They are indissolubly connected, Division being, as Plato inculcates, the only road to Definition. To find what a thing is, it is necessary to set out from Being in general, or from some large and known Kind which includes the thing sought—to dismember

the kind into its component parts, and these into others, each division being, if possible, only into two members (an anticipation of Ramus and Bentham), marking at each stage the distinctive feature which differentiates one member from the other. By the time we have divided down to the thing of which we are in quest, we have remarked its points of agreement with all the things to which it is allied, and the points that constitute its differences from them; and are thus enabled to produce a definition of it, which is a compendium of its whole nature. This mode of arriving at a definition is elaborately exemplified, first on an insignificant subject, then on a great and difficult one, in the *Sophistes* and *Politikos*; two of the most important of the Platonic dialogues, because in both of them the conception of this part of the process of philosophizing is purely Baconian, unincumbered by the ontological theory which Plato in other writings superinduces on his pure logic.* Without this theory, however, a very insufficient conception would be formed of the Platonic philosophy. The bond of union among the particulars comprised in a class, as understood by Plato, is not a mental Concept, framed by abstraction, and having no existence outside the mind, but a Form or Idea, existing by itself, belonging to another world than ours—with which Form or Idea, concrete objects have a communion or participation of nature, and in the likeness of which (though a very imperfect likeness) they have been made. When this mode of conceiving the process of generalization

* The transition in Plato's mind from the simple to the transcendental doctrine is represented in a tolerably intelligible manner in his *Seventh Epistle*, of which an abstract is given by Mr. Grote, vol. i. p. 223, *et seq.*

had been received into Plato's mind, he was led to think that the Ideas were the real existences, which were alone permanent, alone the object of knowledge. Individual objects, if they could be said to be knowable at all, were only knowable through the Ideas, which, therefore, it was the characteristic function of the philosopher to cognise; thus exalting the philosopher to a region above nature and the earth, and making him of kin to the gods, who, being the possessors of supreme wisdom, must live in the perpetual contemplation of these glorious and superterrene existences. We have here reached the mystical and poetical side of Plato's philosophy; and the dialectic process being the only road by which an earthly nature can approach these divine essences (for he by no means regarded their apprehension as intuitive), we begin to understand how that process acquires the poetical and religious halo which surrounds it in his mind; how the dialectician becomes a kind of divine person—the nearest approach possible for man to the celestial nature.

The real merits, however, of the Platonic dialectics are not dependent on this religious and metaphysical superstructure; and before we follow Plato farther on that slippery ground, we must dwell a little on the debt mankind owe to him for this, incomparably his greatest gift.

The larger half of the Platonic compositions is directly devoted to the exemplification and application of the dialectic art; the investigation, in conversation between two persons, of the definition of some term in general use, connected with emotional sentiments and practical impulses and restraints. Sometimes the

inquiry takes the shape of confutation of an opinion maintained by some admired teacher, or self-confident dogmatist: sometimes the interlocutor is a friend or companion, usually an ingenuous youth, who is encouraged to attempt a definition, and as the definitions he hazards are successively shown to be insufficient, looks out for another, free from the particular fault which has been pointed out. An idea of the variety of topics embraced by these inquiries may be conveyed to those unacquainted with Plato, by the following catalogue:—

- Euthyphron.* —What is Holiness?
Laches. —What is Courage?
Charmides. —What is Temperance (or self-restraint, or moderation, or orderliness, or sobriety)?
Lysis. —What is Friendship (or affection, or liking, or attachment, or attraction, or preference)? Or rather, what is the natural object of this sentiment?
Hippias Major.—What is the Beautiful (or the Honourable, or the Fine, or the Admirable)?
Erastæ. —What is Philosophy?
Hipparchus. —What is τὸ φιλοκερδές (meanness, sordidness, graspingness, greed of gain)?
Minos. —What is a Law?
Menon. —What is Virtue?
Theætetus. —What is Knowledge?
Sophistes. —What is a Sophist?
Politikos. —What is a Statesman?

All these dialogues have for their sole object the investigation of Definitions, either in the way of confutation or of simple search. If we add those of which an important part is directed to this purpose, though the dialogue has other objects besides, we include the four greatest masterpieces of Plato's genius:—

Protagoras.—A manifold and magnificent display of the Sokratic and Platonic mind, a great part of which consists of an inquiry into the definitions of the cardinal virtues, and especially of Courage.

Phædrus.—Equally multifarious; part of which is a discussion respecting the nature and definition of Rhetoric.

Gorgias.—What is Rhetoric? With this inquiry the dialogue sets out, but leads through it into an ethical controversy on the superiority of the just over the unjust life.

Republic.—The inquiry, What is Justice? is the starting point of this great work, which widens out into a complete treatise on the Platonic ethics, and on the constitution of a perfect commonwealth.

A series of investigations worthy to be attributed to the philosopher who, as we hear from Xenophon,* 'never ceased considering, along with his companions, what each existing thing is,' being of opinion 'that those who know what each thing is, are able to exhibit it to other people; but when men know it not, it is no wonder that they themselves go astray, and mislead others.'

In casting our eyes over this list, we are forcibly reminded what a curious thing Mixed Modes are; if we may venture to borrow from the Lockian psycho-

logy a phrase which has fallen into undeserved disuse, signifying those complex ideas which the mind makes up for itself, not by directly copying an original in nature, but by combination of elements more or less arbitrarily selected from experience. Of this kind are the various concepts connected with praise and blame, which, being mostly compounded of elements having little to hold them together except a common emotion, are differently composed in different ages and countries, and the words which represent them in one language have no synonyms in another. We found it impossible to express the subjects of several of Plato's dialogues in English, except by heaping together a number of names, no one of which is an exact equivalent of the Greek word, and which even in combination are only an approximate expression of the same collection of attributes. The subject of the *Lysis* is *φιλία*, translated Friendship; and the inquiry into the nature of *φιλία* has to give an account of friendship; but it has also to give an account of a man's *φιλία* for horses, and dogs, and wine, of the *φιλία* of a sick body for health and medicine, that of a philosopher for wisdom, even the imaginary attraction of Dry for Moist, Cold for Hot, Bitter for Sweet, Empty for Full, and contraries in general for one another. *Σωφροσύνη*, the subject of the *Charmides*, is one of the most difficult words to translate in the whole Greek language. The common rendering, Temperance, corresponds to a part of the meaning, but is ridiculously inadequate to the whole. Continence, Modesty, Moderation, are all short of the mark. Self-Restraint and Self-Control are better, but imply the coercion of the character by the will, while what is required is rather a character not

needing coercion.* There is also in the Greek word an implied idea of order, of measure, and, as may be seen from this very dialogue, of deliberateness, which are wanting in the nearest English equivalents.* Unobtrusiveness, too, is an essential part of the concept; and there is a connotation besides of Judgment or Intelligence (let us say Reasonableness); otherwise Plato could not, as he does in the Protagoras, found an apparent argument on the antithesis between *σωφροσύνη* and *ἄφροσύνη*. Sobriety, a word used several times in this connexion by Mr. Grote, perhaps comes nearest to the Greek word in its variety of applications; but even this hardly admits of being substituted for it in discourse, without a perpetual running comment. A still more illustrative case, interesting as an example of the relation between national language and national character, is the Greek employment of the words which we translate by Beautiful and Ugly: *καλόν* and *αἰσχρόν*. These terms, derived from purely physical characteristics, and never ceasing to carry that meaning, became the symbols, both in speculation and in daily life, of the æsthetic or artistic view of human actions and qualities, as distinguished from the useful and the simply dutiful; an aspect prominent, and even predominant, in the susceptible Grecian mind, but which, to our exclusively practical turn of thought, confirmed by monachism and puritanism, is scarcely intelligible, and our translators bungle with their 'honourable' and 'shameful' in a vain attempt to express the complicated sentiment of the Greeks on matters of conduct and character, or to understand what their writers meant. The French, whose ethical sentiment retains more of the æsthetic element, some-

times indeed out of due proportion to the prudential and the dutiful, realize better the Hellenic feeling, and can often, even in moral discussion, translate *τὸ καλόν* by 'le beau;' though there is no similar correlation of 'le laid' with *αἰσχρόν*.*

In spite, however, of these divergences between Plato's world and our own in the composition of the complex ideas to which emotions are attached, whoever has a due value for the Method will often learn as much from these cases, as from the more frequent ones in which the subject of inquiry is a Mixed Mode identical or very similar to one familiar to ourselves; as Virtue, Justice, Courage, Knowledge, Law.

In many of these investigations, the person questioned does not at first exactly know what is expected from him, and instead of a genuine definition, replies by specimens of particular things commonly included under the name; the pretentious and practised teacher Hippias, as represented in the dialogue, being as unfamiliar with the sort of investigation intended, and more inexperienced and clumsy when he attempts it, than the respectable and competent man of action Laches, the opulent Thessalian patrician Menon, or the youth Theætetus. Sokrates labours, by a profusion of illustrative examples (showing how little familiar the notion then was), to make them understand that what

* We do not pretend that *καλόν*, any more than its French equivalent, was always used in a distinctly æsthetic meaning. As commonly happens, the fine edge of its signification was blunted by use, and it was often little more than an ornamental expression for *ἀγαθόν*, as when we speak in English of 'a fine thing;' so that Sokrates, in a conversation recorded by Xenophon (Memor. iii. 8) and referred to by Mr. Grote (vol. iii. p. 540), could maintain that everything is *καλόν* which is well adapted to its purpose, and that a well-made manure-basket is as truly *καλόν* as Virtue.

is wanted is not any particular cases of the beautiful, or of virtue, or of knowledge, but what Beauty, or Virtue, or Knowledge, in themselves are. The respondent is then encouraged, or, if in an antagonistic position, compelled, to point out some feature or circumstance which is always present along with the notion or predicate into the meaning of which they are inquiring. The part of Sokrates is, to show either that this feature or circumstance is not present in all the cases, or, more frequently, that it is present in many more than the cases, to which the word is applicable; thus obliging the respondent either to withdraw his definition and try another, or to limit the first by some circumstance, intended to exclude the particulars which had been unguardedly left within the boundary. Many definitions are tried, and shown to be untenable, and the dialogue often concludes without any result but the confession of ignorance. Even when one of the definitions examined seems to be accepted in one dialogue, it is often contested, and apparently refuted, in another; so that the result, on the whole, is rather one of method than of doctrine; though striking fragments of truth come to the surface, in the general turning up of the subject which the process involves. The confutations, too, though of marvellous ingenuity, are frequently, to us, obvious fallacies. Yet the process is the true and only mode of acquiring abstract notions which are both clear, and correspond to points of identity among real facts; and the manifold and masterly exemplification of it in the Platonic dialogues is a discipline in precise thinking, to which there is even now nothing *simile aut secundum* in philosophy. To suppose that dialectic

training only trains dialecticians, is great ignorance of its power and virtue. Such training is an indispensable education for dogmatic thinkers: and it is quite in the course of nature that Plato should have been the master of Aristotle. But the many first-rate minds which have owed much of their clearness and vigour to the Platonic dialectic, have shown what it had done for them by the fruits it brought forth in themselves, rather than by creating any fresh models of it. The dialogues, therefore, are the still unrivalled types of the dialectic process; made captivating by all the grace and felicity of execution which gave to the author the title of the Attic Bee; and afford an example, once in all literature, of the union between an eminent genius for philosophy and the most consummate skill and feeling of the artist.

Much, however, as the modern world owes to the Platonic dialectics, it is seldom duly sensible of the obligation. The testing and cross-examining process is never popular.

'In the natural process of growth in the human mind, belief does not follow proof, but springs up apart from and independent of it; an immature intelligence believes first, and proves (if indeed it ever seeks proof) afterwards. This mental tendency is further confirmed by the pressure and authority of King Nomos; who is peremptory in exacting belief, but neither furnishes nor requires proof. The community, themselves deeply persuaded, will not hear with calmness the voice of a solitary reasoner, adverse to opinions thus established; nor do they like to be required to explain, analyse, or reconcile those opinions. They disapprove especially that dialectic debate which gives free play and efficacious prominence to the negative arm.'*

'Nothing† can be more repugnant to an ordinary

mind than the thorough sifting of deep-seated, long familiarized notions.' Scarcely any modern would endure to submit himself to the Sokratic interrogation, which, to Plato's apprehension, was so emphatically the only sufficient Elenchus or test, that he entertained a very poor opinion of the value either of long speeches, or of written discourse, where the discourser was not at hand to be questioned and to question—*διδόναι καὶ δέχεσθαι λόγον*. Even such approach to the Sokratic method as written composition admits of, the confutation of adversaries behind their backs, is seldom regarded with much favour; even those who agree with the writer caring little for it, beyond what pleasure they may take in seeing their opponents humiliated. For themselves, they are content to be convinced by their own reasons, without troubling themselves about counter-arguments which they are sure must be fallacious. Yet truth, in everything but mathematics, is not a single but a double question; not what can be said for an opinion, but whether more can be said for it than against it. There is no knowledge, and no assurance of right belief, but with him who can both confute the opposite opinion, and successfully defend his own against confutation. But this, the principal lesson of Plato's writings, the world and many of its admired teachers have very imperfectly learned. We have to thank our free Parliament, and the publicity of our courts of justice, for whatever feeling we have of the value of debate. The Athenians, who were incessantly engaged in hearing both sides of every deliberative and judicial question, had a far stronger sense of it.

The other, or positive half of the Platonic dialectic, is equally far from being appreciated; that, namely,

whereby the vague generalities which serve as the standard of censure or applause in common discourse, are put on the logical rack, and compelled to declare what definite signification lies in them. This two-fold obligation, to be able to maintain our opinions against the criticism of opponents and refute theirs, and never to use a term in serious discourse without a precise meaning, has always been odious to the classes who compose nearly the whole of mankind ; dogmatists of all persuasions, and merely practical people. Hence it is that human intellect improves so slowly, and, even in acquiring more and more of the results of wisdom, grows so little wiser. In things that depend on natural sagacity, which is about equally abundant at all times, we are not inferior to our forefathers ; in knowledge of observed facts we are far beyond them ; but we cast off particular errors without extirpating the causes of error ; the Idols of the Tribe, and even of the Den, infest us almost as much as formerly ; the discipline which purges the intellect itself, protecting it from false generalization, inconclusive inference, and simple nonsense, on subjects which it imperfectly knows, is still absent from all but a few minds. We have been disabused of many false and pernicious opinions by the evidence of fact, but not by correcting the mental habits which engender them ; and we are almost as ready as ever to receive new errors, when our senses and memory do not supply us with truths which those particular erroneous opinions would contradict.

It is singular that Plato himself did not fully profit by the principal lesson of his own teaching. This is one of the inconsistencies by which he is such a

puzzle to posterity. No one can read many of the works of Plato, and doubt that he had positive opinions. But he does not bring his own opinions to the test which he applies to others. 'It depends on the actual argumentative purpose which Plato has in hand, whether he chooses to multiply objections and give them effect, or to ignore them altogether.'* 'The affirmative Sokrates only stands his ground because no negative Sokrates is allowed to attack him.'† Or, what is worse, Plato applies the test, and disregards its indications; states clearly and strongly the objections to the opinion he favours, and goes on his way as if they did not exist. If there is a doctrine which is the guide of his deepest speculations, which he invests with all the plausibility that his wonderful power of illustration can give, and clothes in the most brilliant colours of his poetic imagination, it is the theory of Self-Existent Ideas—the essential groundwork of some of his grandest dialogues, especially the *Phædrus*, the *Phædon*, and an important portion of the *Republic*. Yet there is in his writings no specimen of logical confutation more remarkable than that by which *Parmenides*, in the dialogue so called, overthrows this very doctrine, put into the mouth of the youthful Sokrates. Some of the Platonic critics consequently decide the *Parmenides* not to be a work of Plato, but one directed against Plato, by a disciple of the Eleatic school; forgetting that *Parmenides*, in the dialogue, gives an equally peremptory refutation of his own principal doctrine, the Unity of Being, and moreover winds up his refutation of the theory of Ideas by saying that, liable as it is to these

* Grote, vol. ii. p. 108.

† Ibid. vol. i. p. 323.

great difficulties, philosophy and dialectics would be impossible unless it were admitted.* One would expect that so important a theory would not be left in this predicament, suspended between opposite reasons deemed equally irresistible. We should have supposed that the great master of dialectics, since he accepted the doctrine, would have held himself bound to refute its seeming refutation. Yet he never does this, and, we venture to think, could not have done it. The objections are repeated, in a more abridged form, in the *Philebus*, and are equally left unanswered, Sokrates merely remarking, that the subject will probably always continue to be a theme for the ingenuity of young dialecticians.† The dogmatic Plato seems a different person from the elenctic Plato:—

The two currents of his speculation, the affirmative and the negative, are distinct and independent of each other. Where the affirmative is especially present (as in *Timæus*) the negative altogether disappears. *Timæus* is made to proclaim the most sweeping theories, not one of which the real Sokrates would have suffered to pass without abundant cross-examination; but the Platonic Sokrates hears them with respectful silence, and commends afterwards. When Plato comes forward to affirm, his dogmas are altogether *à priori*; they enunciate preconceptions or hypotheses, which derive their hold upon his belief not from any aptitude for solving the objections which he has raised, but from deep and solemn sentiment of some kind or other—religious, ethical, æsthetical, poetical, &c., the worship of numerical symmetry or exactness, &c. The dogmas are enunciations of some grand sentiment of the divine, good, just, beautiful, symmetrical, &c., which Plato follows out into corollaries. But

* Plato, *Parmenides*, p. 155 B.

† Plato, *Philebus*, p. 15 D.

‡ Grote, vol. i. p. 270.

this is a process of itself; and while he is performing it, the doubts previously raised are not called up to be solved, but are forgotten or kept out of sight. 'Plato' was sceptic, dogmatist, religious mystic and inquisitor, mathematician, philosopher, poet (erotic as well as satirical), rhetor, artist, all in one, or, at least, all in succession, throughout the fifty years of his philosophical life. At one time his exuberant dialectical impulse claims satisfaction, manifesting itself in a string of ingenious doubts and unsolved contradictions; at another time he is full of theological antipathy against those who libel Helios and Selênê, or who deny the universal providence of the gods: here we have unqualified confessions of ignorance, and protestations against the false persuasion of knowledge, as alike wide-spread and deplorable; there we find a description of the process of building up the Kosmos from the beginning, as if the author had been privy to the inmost purposes of the Demiurgus. In one dialogue the erotic fever is in the ascendant, distributed between beautiful youths and philosophical concepts, and confounded with a religious inspiration and *furor* which supersedes and transcends human sobriety (Phædrus); in another, all vehement impulses of the soul are stigmatized and repudiated, no honourable scope being left for anything but the calm and passionless Nous (Philêbus, Phædon). Satire is exchanged for dithyramb and mythic, and one ethical point of view for another (Protagoras, Gorgias). The all-sufficient dramatizing power of the master gives full effect to each of these multifarious tendencies. On the whole—to use a comparison of Plato himself—the Platonic sum total somewhat resembles those fanciful combinations of animals imagined in the Hellenic mythology—an aggregate of distinct and disparate individuals, which look like one because they are packed in the same external wrapper.'

The most important, though not the whole, of these varieties of tone and sentiment, seem to us to be

explained by the philosopher's advance in years, and growth in positive convictions. The first alone will account for much. There needs little argument to prove that the warfare against the intenser pleasures, and condemnation of all mental perturbations, of the *Philebus*, the *Leges*, and even the *Republic*, belong to a later time of life than the amatory enthusiasm of the *Phædrus* and the *Symposium*. Again, the works which bear the strongest marks of having been written in Plato's later years, show a great modification in his estimation of the Elenctic process. He had apparently met the not unfrequent fate of great reformers, so strikingly exemplified in the career of Luther, who, precisely because he had succeeded beyond all reasonable expectation in his original purpose, had to expend his principal energies during the latter part of his life in driving back followers who had outrun their leader. In the dialogues of mere Search, which were probably written by Plato while the influence of Sokrates over his mind was still predominant, there is nothing he oftener repeats, in the person of his hero, than that the mere awakening of a sense of ignorance, the mere destruction of the false persuasion of knowledge which is universal among mankind, is in itself, though nothing further come of it, a highly valuable result of Dialectics. But as he advanced in life, and acquired a persuasion of knowledge of his own; when, to use a metaphor of Mr. Grote's, he ceased to be leader of opposition, and passed over to the ministerial benches, he came to think that the Sokratic cross-examination is a dangerous edge-tool. Already in the *Republic* we find him dwelling on the mischiefs of a purely nega-

tive state of mind, and complaining that Dialectics are placed too early in the course of education, and are taken up by 'immature youths,* who abuse the licence of interrogation, find all their home-grown opinions uncertain, and end by losing all positive convictions.' In the Platonic commonwealth, this pursuit only commences at the age of thirty, in order that Plato's own dogmatic opinions may have a long start before being exposed to the dangers of the elenctic test. Dialectic, with its logical cross-examination, is still, however, the grand instrument of philosophizing, and those trained in it are alone considered fit to rule. But as Plato advanced still further in years and in dogmatism, he seems to have lost his relish and value for Dialectic altogether. In his second imaginary commonwealth—that of the *Leges*—it is no longer mentioned; it forms no part of the education either of the rulers or of the ruled, but in lieu of it is substituted a rigid and immutable orthodoxy of Plato's own making, any disloyalty to which, or any dream of trying it by the *Elenchus*, is repressed with *Torquemada*-like severity. With regard to his omission to fortify his opinions in his own mind, against the difficulties raised by himself, our suspicion is, that he had come to despair of the efficacy of the dialectic process as a means of discriminating truth; that his inability to solve his own objections had brought him to the persuasion that objections insoluble by dialectics could be made against all truths; and, the ethical and political tendencies of his mind becoming predominant over the purely speculative, he came to think that the doc-

trines which had the best ethical tendency should be taught, with little or no regard to whether they could be proved true, and even at the risk of their being false.*

There are thus, independently of minor discrepancies, two complete Platos in Plato—the Sokratist and the Dogmatist—of whom the former is by far the more valuable to mankind, but the latter has obtained from them much the greater honour. And no wonder; for the one was capable of being a useful prop to many a man's moral and religious dogmas, while the other could only clear and invigorate the human understanding.

There is, indeed, ample justification for the homage which all cultivated ages have rendered to Plato simply as a moralist—as one of the most powerful masters of virtue who have appeared among mankind. Amid all his changes, there is one thing to which he is ever constant—the transcendent worth of virtue and wisdom (which he invariably identifies), and the infinitely superior eligibility of the just life, even if calumniated and persecuted, over the unjust, however honoured by men, and by whatever power and grandeur surrounded. And what he thus feels, no one ever had a power superior to his of making felt by his readers. It is this element which completes in him the character of a Great Teacher. Others can instruct, but Plato is of those who form great men, by the combination of moral enthusiasm and logical discipline. 'Aristotle,' says Mr. Grote,* 'in one of his lost dialogues, made honourable mention of a Corinthian cultivator, who in reading the Platonic

* Grote, vol. ii. p. 90.

Gorgias, was smitten with such vehement admiration, that he abandoned his fields and his vines, came to Athens forthwith, and committed himself to the tuition of Plato.' It was not, we may be assured, by its arguments, that the Gorgias produced this striking manifestation of psychagogic efficacy; for they are nearly all of them fallacies, and could not have resisted the first touch of the cross-examining Elenchus, so unsparingly applied to their impugnors. This great dialogue, full of just thoughts and fine observations on human nature, is, in mere argument, one of the weakest of Plato's works. It is not by its logic, but by its *ῥητορική*, that it produces its effects; not by instructing the understanding, but by working on the feelings and imagination. Nor is this strange; for the disinterested love of virtue is an affair of feeling. It is impossible to prove to any one Plato's thesis, that justice is supreme happiness, unless he can be made to feel it as such. The external inducements which recommend it he may be taught to appreciate; the favourable regards and good offices of other people, and the rewards of another life. These considerations, however, though Plato has recourse to them in other places, are not available in the Gorgias. The posthumous recompense he only ventures to introduce in the form of a myth; and the earthly one is opposed to the whole scheme of the dialogue, which represents the virtuous and wise man as, in every existing society, a solitary being, misjudged, persecuted, and having no more chance with the Many against their adulators, than (to use Plato's comparison) a physician would have, if indicted before a jury of children by a confectioner for

giving them nauseous drugs instead of delicious sweetmeats. It is precisely this picture of the moral hero, still *tenax propositi* against the hostility and contempt of the world, which makes the splendour and power of the Gorgias. The Sokrates of the dialogue makes us feel all other evils to be more tolerable than injustice in the soul, not by proving it, but by the sympathy he calls forth with his own intense feeling of it. He inspires heroism, because he shows himself a hero. And his failures in logic do not prevent the step marked by the Gorgias from being one of the greatest ever made in moral culture—the cultivation of a disinterested preference of duty for its own sake, as a higher state than that of sacrificing selfish preferences to a more distant self-interest.

In the Republic, the excellence and inherent felicity of the just life, are as impressively insisted on, and enforced by arguments of greater substance. But, as Mr. Grote justly remarks, those arguments, even if conclusive, are addressed to the wrong point; for the life they suppose is not that of the simply just man, but of the philosopher. They are not applicable to the typical just man—to such a person as Aristeides, who is no dialectician, soars to no speculative heights, and is no nearer than other people to a vision of the Self-Existent Ideas, but who, at every personal sacrifice, persistently acts up to the rules of virtue acknowledged by the worthiest of his countrymen. It is not obvious what place there was for Aristeides in the Platonic theory of virtue, nor how he was to be adjusted to the doctrine of Plato and of the historical Sokrates, that virtue is a branch of knowledge, and

that no one is unjust willingly. Aristeides probably had the same notions of justice as his cotemporaries, and could as little as any of them have answered Sokratic interrogatories by a definition of it, which would have been proof against all objections. The conformity of his will to it, the never being unjust willingly, was probably the chief moral difference between him and ordinary men. Plato might indeed have said that Aristeides had the most indispensable point of knowledge—he knew that the just man must be the happiest. But Aristeides was not the kind of man of whom Plato has, more or less successfully, proved this; and the true Platonic doctrine is that it is impossible to be just, without knowing (in the high Platonic meaning of knowledge) what justice is.

* The historical Sokrates of the *Memorabilia* (iv. 4), being challenged by the Sophist Hippias to give over merely tormenting others, and commit himself to a positive opinion about justice, replies by a definition which would have included Aristeides, but not the Platonic ruler or philosopher: Justice, he says, is τὸ νόμιμον—conformity to the laws of the country. This definition, which exactly suited the unideal and practical Xenophon, does not satisfy the Sophist, who is here again represented as contending for a higher law. He objects, that the laws cannot be the standard of virtue, since the communities which enact them often change their mind, and abrogate the laws they have made. To which Sokrates makes the ingenious, and not un-Sokratic, answer, that communities also make war, and again peace, yet we do not disparage a good tactician or soldier because peace may come. The only work of Plato in which the vein of sentiment corresponds with this, is the *Kriton*, in which Sokrates, after his condemnation, refuses to accept an offer made to contrive his escape. He here insists powerfully on the duties which a man owes to his country and its laws, even when these are unjustly applied against himself, and personifies the Laws as reproaching him, if he flies from his doom, for ingratitude, in accepting through life all the benefits they gave, and now refusing to submit to their obligations. Judged by Plato's standard in other places, the answer of the Xenophontic Sokrates to the question of Hippias is very un-Platonic; yet we suspect that Plato

When we try Plato, as a moralist, by this test of his own; when, from the inspired apostle of virtue, we pass to the philosophic teacher of it, and ask for his criterion of virtue, we find it different in different works. In the Protagoras, it is completely utilitarian, in all that is stigmatized by some people as 'low' and 'degrading;' though justly condemned by Mr. Grote from the utilitarian point of view, because destitute of the unselfish element. According to the Sokrates of the Protagoras, there is nothing good as an end except pleasure and the absence of pain; all other good things are but means to these. Virtue is an affair of calculation, and the sole elements of the calculation are pains and pleasures. But the elements computed are the agent's own pains and pleasures, omitting those of other people, and of mankind. The system is thus a selfish one; though only theoretically so, since its propounder would have held fast to the doctrine that the just is the only happy life, *i.e.* (according to the theory of this dialogue) the one which affords to the agent himself the greatest excess of pleasure over pain. The standard of the Protagoras agrees with that of the historical Sokrates, who

would have given the same answer to some persons and in some circumstances; that King Nomos was in his mind the sufficient and proper ruler for the generality of mankind; that laws, together with established customs (the *ἡγάρφαι νόμοι* of the same Xenophontic conversation, those common to all mankind) were his real rule of justice for the citizen, though the legislator and the philosopher required a more scientific standard. Among many passages pointing to this conclusion, we may refer to two in Theætetus (172 A and 177 D), and Leges (i. 637-8), where the point of view of the private citizen, taking the laws of his own country for the test of virtue, is distinguished from that of the philosopher, as represented by the characters in the dialogue, who are investigating what constitutes the virtue of the legislators themselves.

throughout the *Memorabilia* inculcates the ordinary duties of life on hedonistic grounds, and recommends them by the ordinary hedonistic inducements, the good opinion and praise of fellow-citizens, reciprocity of good treatment, and the favour of benevolent deities. Even in the *Leges*, Plato affirms that people will never be persuaded to prefer virtue unless convinced of its being the path of greatest pleasure, and that whether it is so or not (though he fully believes that it is), they must not only be taught to believe this, but no approach to a doubt of it must be tolerated within the country. The Sokrates of the *Gorgias*, however, dissents both from the Sokrates of the *Protagoras* and from the real Sokrates. Good is, with him, no longer synonymous with Pleasurable, nor Evil with Painful. To constitute anything a Good, it must be either pleasurable or beneficial (*ὠφέλιμον*), and Justice belongs to the category of Beneficial; but beneficial to what end, is not explained, except that the end certainly is not Pleasure. Justice is assimilated to the health of the soul, injustice to a disease: and since the health of the body is its greatest good, and disease its greatest evil, the same estimate is extended by analogy to the mind. There is no attempt, in the *Gorgias*, to define Justice. In the *Republic*, which has this definition for its express purpose, and travels through the whole process of constructing an ideal commonwealth to arrive at it, the result is brought out, that Justice is synonymous with the complete supremacy of Reason in the soul. The human mind is analysed into the celebrated three elements, Reason, Spirit or Passion (*τὸ θυμοειδές*, another troublesome Mixed Mode) and Appetite. The

just mind is that in which each of the three keeps its proper place; in which Reason governs, Passion makes itself the aid and instrument of Reason, and the two combined keep Appetite in a state of willing subjection. In the *Philebus*, which is professedly *De Bono* (or 'rather *De Summo Bono*), the subject is more discriminatingly scrutinized. After a long discussion, in which those who uphold Pleasure, and those who contend for wisdom or intelligence (*φρόνησις*), as the ultimate end, are both confuted; Good, or that which is worthy of being desired, is found to consist of five things, desirable in unequal degrees. We shall not quote the whole list, as, from the vagueness of some of the conceptions, and the extremely abstract nature of the phraseology, even Mr. Grote confesses how hard it is to be understood. The first four, however, have exclusive reference to the rational elements of the mind, while the fifth, placed far below the others, consists of the few pleasures which are gentle and unmixed with pain; all others, and especially the intenser pleasures, having been eliminated, as belonging to a distempered mental condition. All these theories lay themselves open to Mr. Grote's criticism, by defining virtue with reference to the good only of the agent himself; even justice, pre-eminently the social virtue, being resolved into the supremacy of reason within our own minds: in disregard of the fact that the idea and sentiment of virtue have their foundation not exclusively in the self-regarding, but also, and even more directly, in the social feelings: a truth first fully accepted by the Stoics, who have the glory of being the earliest thinkers who grounded the obligation of morals on the brotherhood, the *συγγένεια*, of

the whole human race. The grand defect of Plato's ethical conceptions (excellently discussed in Mr. Grote's remarks on the Republic) was in overlooking, what was completely seized by Aristotle—that the essential part of the virtue of justice is the recognition and observance of the rights of other people.*

It is noticeable that even in the Republic, the governing and controlling principle of the mind, which we have translated Reason, and whose unresisted authority constitutes the essence of virtue, is τὸ λογιστικόν—literally the calculating principle (λογιστική being used by Plato himself, in the Gorgias, to denote a portion of Arithmetic). This is the very doctrine of the Protagoras, except that the elements to be calculated are different. And, through the whole series of the dialogues, a Measuring Art, μετρητικὴ τέχνη, as a means of distinguishing the truth of things from their superficial appearance, is everywhere desiderated as the great requisite both of wisdom and of virtue. When, however, the test of Pain and Pleasure is abandoned, no other elements are shown to us which the Measuring Art is to be employed to measure. Of course it has to measure our minds and actions themselves; but we measure anything, to make it conform to, or agree with, the dimensions of something else; and Plato does not tell us of what else. Our life is

* Grote, vol. iii. pp. 133–159. The only vestige we find in Plato of the conception of morality which refers to the *general* happiness, is when, in answering the remark that the guardians of his ideal republic, being denied all the interests to which human life is generally devoted, would have a poor and undesirable existence, he says, 'Perhaps it may turn out that theirs would be the happiest of all; but even if what you say is true, our object is not that one portion of the community may be as happy as possible, but that the whole community may be so.'

to be regulated, but we are not told what it is to be regulated by. The measuring process is supposed to have a virtue in itself. The analogy used is that of the untrue magnitudes and proportions of objects as seen by the eye, and their rectification by measurement; Plato overlooking that it is not the act of measuring which rectifies them, but the perceptions of touch which the measuring only ascertains. The idea of Measure as a good in itself, independent of any end beyond it, seems to have grown upon Plato as he advanced in life. Mere conformity to a fixed rule, especially if accompanied by regularity of numerical proportion, became his principal standard of excellence. This answered to a powerful sentiment in the Hellenic mind, which, combining with vehement impulses a high sense of personal dignity, demanded harmonious proportion in mind and deportment as much as in architecture, and to which anything inordinate, dissonant, unrhythmical, even in voice or demeanour, was not only distasteful,* but seemed an indication of an ill-regulated mind; as it is expressly affirmed to be by Plato in the Republic.† In Plato's own mind we know that Measure and Regularity were the very footprints of divinity;

* Tennyson, in one of his finest poems, the *Eleanore*, has entered well into this peculiarity of Grecian feeling:—

‘For in thee
Is nothing sudden, nothing single.
Like two streams of incense free
From one censer, in one shrine
Thought and motion mingle,
Mingle ever. Motions flow
To one another, even as though
They were modulated so
To an unheard melody.’

† Plato, *Rep.* iii. pp. 400–402, and Grote, vol. iii. pp. 58, 59.

that they, and only they, were the marks of design in the Kosmos, and where they ceased, the share of Deity ended too; the Kosmōs altogether being but a compromise with ἀνάγκη or Necessity; which, by an inversion of the modern idea, stood for the capricious portion of the agencies in Nature—those in which the same consequent did *not* invariably follow the same antecedent.* In the Philebus, Measure and the Measured, μέτρον καὶ τὸ μέτριον καὶ καίριον, stand as the first elements of Good, even Intelligence being only the third, and Pleasure (limited to the unexciting pleasures) the fifth and hindmost. In Plato's later speculations, from the Republic to the Epinomis, the sciences of measure and proportion, Arithmetic, Geometry, and Astronomy, gradually take the place of Dialectics as the proper education of a ruler and philosopher. We learn from Aristotle that this was even more emphatically the case in his lectures, during the latter years of his life. Those which he delivered on the Ipsum Bonum, or Idea of Good, to the surprise of hearers, turned on transcendental properties of numbers. Number was resolved into two elementary factors—The One, and the Dyad or Two, this last being identified with the Indeterminate; and the Good was affirmed to be identical with the One, while Evil was the Unbounded or Undetermined, ἀόριστον and ἄπειρον.† Thus did the noble light of philosophy in Plato go out in a fog of mystical Pythagoreanism.

In this Pythagorean morass, as we learn from the same authority, the brilliant doctrine of Ideas was submerged and quenched. Yet that doctrine stands,

* See the Timæus, throughout.

† Grote, vol. i. pp. 217, 218.

and will stand to posterity, as the purest type of the Platonic metaphysics. It is true of Plato, as of all his countrymen with the partial exception of Aristotle, that while their moral and political thoughts abound in a wisdom both practical and of permanent application, their metaphysical speculations are only interesting as the first efforts of original and inventive minds to let in light on a dark subject. The Platonic Ideas are nothing more; but, of all theories which have arisen in ingenious minds from an imperfect conception of the processes of abstraction and generalization, they are surely among the most plausible as well as beautiful. Men already abstracted and generalized before Plato wrote, or they would not have been human beings; but they did so by an unconscious working of the laws of association, which resembled an instinct: no theory of those operations was in existence till Plato formed one, and the mere direction of consciousness upon the processes themselves was a new thing, which, as we see in many of the dialogues, even an intelligent pupil required to be assisted to do by a great prodigality of illustration. Now a contemplative mind soon perceived that all the objects of sense, whether substances, attributes, or events—and the noblest objects most—are that which they are, in only an imperfect manner, and suggest to the mind a type of what they are, far more perfect than themselves; a 'something far more deeply interfused,' which eye has not seen nor ear heard, but of which that which can be seen or heard is an imperfect, and often very distant, resemblance. Psychology in its infancy did not yet enable men to perceive that the mind itself creates this more perfect type, by compa-

ri-son and abstraction from the imperfect materials of its experience; but they perceived that the types embodied the unattainable perfection of all other things, and were the models which Nature itself seemed to strive to approach. What, then, could be more natural than to regard the types as real objects, concealed from sense, but cognisable directly by the mind—which, once conceived as external to us, seemed more real than anything else, all other things resembling imperfect attempts to copy them? The Self-Beautiful, the Self-Good, which not only were to all beautiful and good things as the ideal is to the actual, but united in themselves the separate perfections of all the various kinds of beauty and goodness—these forms or essences, from a participation in which all concrete things derive what they possess of goodness and beauty, but paled and disfigured by the turbid element in which they are immersed—these existences, so vastly more splendid than their feeble earthly representatives, and not, like them, subject to injury or decay—must not they be Realities in a far higher sense than the particulars which are within sensible cognisance? particulars which indeed are not realities: for there is no particular good or beautiful or just thing, which is not, in some case that may be supposed, unjust, evil, and unbeautiful. Was it not then to be presumed that the part of our nature which apprehends these Real Existences would perceive them far more clearly, but for the veil of sense interposed; and that it is only when the veil is removed, that we pass out of the world of images and likenesses into that of the Things themselves, and contemplate the splendid vision in all its brightness? But even in

this world of shadows, the mind of the philosopher, trained by the dialectic process to see 'the One in the Many,' can achieve, by arduous labour, such a perception of the Ideal Forms, as qualifies him for admission to a nearer and more satisfactory view of them in a life after death.

The mode in which Plato was led, by the same train of thought, to another of his opinions, the famous doctrine of Reminiscence, is not left for us to divine. It is shown to us in the *Menon*, in which more that is characteristic of Plato is brought together in a smaller space than in any other dialogue: if the *Phædon* and the *Gorgias* are noble statues, the *Menon* is a gem. Why is it, asks Sokrates, that when we seek for something we do not know, we yet know what we are seeking? and how comes it that we are able to recognise it when found? This, it seems, had been one of the puzzles of these early thinkers, resembling others of which great notice is taken in the Platonic writings: not quibbles of captious sophists, as commentators and historians of philosophy pretend, but difficulties really embarrassing to those who were trying to understand their own mental operations. Why, asks Sokrates, does truth (so hard to find) when found, approve itself to us, often instantaneously, as truth? He can think of no explanation, but that we had known it in a former life, and need only to be reminded of our knowledge. Modern thinkers who have stopped short at Plato's point of view, resolve the difficulty by pronouncing the knowledge to be intuitive. But Plato could not put up with this explanation; he knew too well how slowly, painfully, and at last imperfectly, the knowledge is acquired. The

whole process of philosophizing was conceived by him as a laborious effort to call former knowledge back to mind. His doctrine is related to that of Wordsworth's ode, erroneously called Platonic, not as identical but as opposite: with Wordsworth our life here is 'a sleep and a forgetting,' with Plato it is a recollecting. We at once perceive the support which this doctrine gives to Plato's conception of the process of instruction (a conception supremely important in his own and in all time) that 'teaching and learning are words without meaning;* that knowledge is 'to be evolved out of the mind, not poured into it from without.† The intimate connexion between the doctrine of Reminiscence and that of Ideas, even were it not obvious, would be shown by the *Phædon*, in which the Reminiscence theory is maintained on the express ground that every existing thing, in itself incomplete, brings to mind a type of its own nature more perfect than itself; and as we can only be reminded of that which we once knew, we must have known the type in a former life. The two doctrines are inseparably blended in the poetic mythe delivered by Sokrates in the *Phædrus*; and when in Plato's later years the one doctrine drops out of his speculations, so does the other.

The doctrine of Pre-existence is naturally connected with that of Immortality; and in the *Phædon* the arguments for the latter are mostly grounded on the former. That wonderful dialogue, which divides with perhaps the *Gorgias* alone, the honour of being the most finished and consummate prose composition in Plato, if not in all literature—which combines in

itself more sources of the grandest interest, more artistically fused together, than any other of Plato's works—contains not one argument which is not a fallacy, or which could convince any one not anxiously desirous to be convinced. Plato himself, when he approaches the subject in other dialogues, resorts to quite different arguments, more resembling those on which recent schools of metaphysics have grounded the doctrines of Spiritualism. For instance, in the *Leges*, he argues that Mind or Soul, the principle of Life, is the only thing which originates motion—inanimate objects only carrying on and transmitting force communicated to them from elsewhere; that Mind, therefore, rules Matter, and must be anterior to it (*πρὸςβύτερον*), and not subject to its laws. This argument, though adduced only as proof of a Divine government, is available for the other purpose, and though we are far from thinking it conclusive, is worth all those of the *Phædon* put together. As Mr. Grote remarks, though the personal incidents of the *Phædon* are Sokratic, and are probably those which really happened, its doctrines and arguments are exclusively Platonic. Sokrates, it is well known, professed no dogmatic certainty about another life. It is all the more worthy of note, that Plato had not yet abandoned the Sokratic canon of belief—viz. that it ought to be the genuine, unbiassed, untampered with, conviction of the individual reason, after giving an impartial hearing to every argument that can be thought of. As the *Gorgias* proclaims, with an energy and solemnity never surpassed, the rights of the individual intellect, and the obligation on every one, though the whole world should be on the contrary

side, to stand firm, he alone, in asserting what recommends itself to his own reason; so in the Phædon, as Mr. Grote observes in one of his many valuable remarks on that dialogue:

'Freedom of debate and fulness of search, the paramount value of "reasoned truth"—the necessity of keeping up the force of individual reason by constant argumentative exercise—and the right of independent judgment for hearer as well as speaker—stand emphatically proclaimed in these last words of the dying philosopher. He does not announce the immortality of the soul as a dogma of imperative orthodoxy; which men, whether satisfied with the proofs or not, must believe, or make profession of believing, on pain of being shunned as a moral pestilence, and disqualified from giving testimony in a court of justice. He sets forth his own conviction, with the grounds on which he adopts it. But he expressly recognises the existence of dissentient opinions; he invites his companions to bring forward every objection; he disclaims all special purpose of impressing his own conclusions upon their minds; nay, he expressly warns them, not to be biassed by their personal sympathies, then wound up to the highest pitch, towards himself. He entreats them to preserve themselves from being tinged with *misology*, or the hatred of free argumentative discussion, and he ascribes this mental vice to the early habit of easy, uninquiring, implicit belief; since a man thus ready of faith, embracing opinions without any discriminating test, presently finds himself driven to abandon one opinion after another, until at last he mistrusts all opinions, and hates the process of discussing them, laying the blame on philosophy instead of upon his own intellect. . . . Sokrates is depicted as having not only an affirmative opinion, but even strong conviction, on a subject of great moment; which conviction, moreover, he is specially desirous of preserving unimpaired, during his few remaining hours of life. Yet even here he manifests no

Grote, vol. ii. pp. 155, 156.

anxiety to get that conviction into the minds of his friends, except as a result of their own independent scrutiny and self-working reason. Not only he does not attempt to terrify them, into believing, by menace of evil consequences if they do not, but he repudiates pointedly even the gentler machinery of conversion, which might work on their minds through attachment to himself and reverence for his authority. His devotion is to "reasoned truth;" he challenges his friends to the fullest scrutiny by their own independent reason; he recognises the sentence that they pronounce afterwards as valid for them, whether concurrent with himself or adverse. Their reason is for them what his reason is for him; requiring, both alike (as Sokrates here proclaims) to be stimulated as well as controlled by all-searching debate, but postulating equal liberty of final decision for each one of the debaters.'

One of the things for which Plato has been most applauded by those modern schools which pique themselves on counting him among their precursors, is the warfare which he is supposed to have made on a sceptical philosophy, attributed, totally without evidence, to the Sophists generally, and considered as one of the means by which they demoralized the Greeks. The doctrines meant are two. One is the special tenet of Herakleitus (who was not a Sophist, except in the loose sense in which all speculative thinkers were so called), that the universe is in a state of perpetual flux, in which nothing is, but all things *become* (εἶναι, γίγνεσθαι; the Hegelian Seyn and Werden). The other is the doctrine of Protagoras, that 'Man is the measure of all things: of things which are, that they are, and of things which are not, that they are not. As things appear to me, so they are to me: as they appear to you, such they really are to you.' In other

words, the doctrine of the Subjective nature of truth : which is a scandal to philosophers, as seeming to make all opinions equally true, and truth 'that which each man troweth.'

Now, what the Herakleitean doctrine affirms of all things, is what Plato himself believed of the phenomenal world—of things cognisable by sense. The only thing which he regarded as really existing τὸ ὄντως ὄν, was the Intelligible World, the world of Self-existent Forms; the extramundane prototypes of that, in the visible universe, which seems, but is not, real existence, and which is considered by him as something intermediate between Ens and Non-Ens.* Herakleitus did not believe in these Forms, and that was the amount of difference between him and Plato. When they both refused to the world of sense what they called Real Existence, they did not mean to deny what we understand by the term, but only what the ancient thinkers understood by it. What they denied of

Such, at least, is the thesis maintained in most of the dialogues by the speaker who appears to be Plato's representative, and poetically symbolized in the famous simile of the Cave. But in one of the most important passages of his works, the parenthetical discussion in the Sophistes, the Eleatic Stranger directly impugns this doctrine, maintaining against certain thinkers who are called 'the friends of Forms,' that the Forms are not the only real existences; are not eternally and unchangeably the same, there being forms of change itself; and that the objects of Perception as well as Conception really exist; Existence being here defined as consisting in Power. To exist, is to have a power of any kind—to be capable of acting, or even of being acted upon. λέγω δὴ τὸ καὶ ὅποιον οὖν κακτήμενον δύναμιν, εἴτ' εἰς τὸ ποιεῖν ἕτερον ὅτιον πεφυκὸς, εἴτ' εἰς τὸ παθεῖν καὶ συμκρότατον ὑπὸ τοῦ φαυλοτάτου, κἂν εἰ μόνον εἰσάπαξ—πάν τοῦτο ὅτως εἶναι· τίθεμαι γὰρ ὅρον ὀρίζειν τὰ ὄντα, ὥς ἔστιν οὐκ ἄλλο τι πλὴν δύναμις.

We regard this as one of the most remarkable anticipations of the latest and best results of modern thought, to be found in all ancient philosophy. It is one of the most memorable of the striking *aperçus* which abound in Plato.

the visible universe, was Existence in a transcendent sense—the Existence *per se* which Plato ascribed to his Ideas, and Xenophanes and Parmenides to their Ens Unum. In modern phrase, Herakleitus denied the Absolute; though his doctrine of a really existent Principle of Change, and his other tenet of an Universal Reason apart from individual minds, a doctrine much in favour with some modern Transcendentalists, reintroduced an Absolute of another kind. Now it may safely be affirmed that no scepticism, limited to the Absolute, ever did anybody harm, or made the smallest practical difference to any human being. The doctrine of Protagoras requires a little more consideration. Though we may reasonably suppose that Plato, in the Theætetus, gives it in that Sophist's words, we are ignorant by what reasons Protagoras defended it, or in what sense he explained it. Sir William Hamilton considered it to mean his own doctrine of the Relativity of human knowledge, and placed Protagoras at the head of his list of early authorities in support of that doctrine. Mr. Grote interprets the maxim *Homo Mensura* in the same sense, but includes also in its meaning the autonomy of the individual intellect. That everything is true to me, which appears so to me, he understands to mean, that my reception of it as truth depends, and ought to depend, on the impression which the evidence makes upon my own mind. Mr. Grote, therefore, defends the Protagorean doctrine against the Sokrates of the Theætetus; but his defence, though useful and instructive, does not satisfy us, and is the only important point in the whole work on which we find ourselves differing from Mr. Grote. For the

truth of an opinion, even to myself, is a different thing from my reception of it as true, since it implies reference to an external standard. My mind, on the evidence before it, may accept as truth that I am five miles from London; but when I set out to walk the distance, and find it ten, the ten miles were all along as true for me as for other people. Protagoras cannot well have intended to deny this, but he cannot be acquitted of an incorrect and misleading mode of expression. His proposition is valid as to our present feelings or states of consciousness, the truth of which has no meaning except that we are actually feeling them; and this is probably the reason why Plato (erroneously in Mr. Grote's opinion) identifies it with the doctrine that knowledge is sensible perception (*αἴσθησις*), the truth of the one doctrine being co-extensive with the sphere of the other. But it is not true of the past, the future, the absent, or anything present except the feeling in our mind. It is invalid as to all that are called matters of belief or opinion: for a belief or opinion is relative not only to the believing mind, but to something else—namely, the matter of fact which the belief is about. The truth of the belief is its agreement with that fact. Mr. Grote says: * 'To say that all men recognise one and the same objective distinction between truth and falsehood, would be to contradict palpable facts. Each man has a standard, an ideal of truth in his own mind; but different men have different standards.' Of the proof of truth, yes: but not, we apprehend, of truth itself. No one means anything by truth, but the agreement of a belief with the fact which it pur-

ports to represent. We grant that, according to the philosophy which we hold in common with Mr. Grote, the fact itself, if knowable by us, is relative to our perceptions—to our senses or our internal consciousness; and our opinion about the fact is so too; but the truth of the opinion is a question of relation between these two relatives, one of which is an objective standard for the other. Justice is not done to Plato's attack on 'Homo Mensura' without considering this aspect of the matter; the rather as he himself brings forward these very arguments. Sokrates asks, Since man is the measure of all things, and has the criterion of truth in himself, whatever he thinks or perceives being true to him, will the criterion serve for things yet to come? If he thinks he shall catch a fever and feel hot, and a physician thinks the contrary, will he be feverish and hot to himself, but not to the physician? A fair *reductio ad absurdum*, and a just criticism on Protagoras, though, if Mr. Grote is right in his interpretation of the Protagorean dictum, the error is in language, not in thought. But in philosophy, especially where it touches the ultimate foundations of our reason, wrong language is as misleading as a wrong opinion.

This dialogue, the Theætetus, though it ends without any conclusion, leaving the question proposed in it unanswered, is one of the most suggestive in all Plato by the number of points of view it brings forward; and is among the finest examples in his writings of genuine honest Search, in which the confutation of any one, even when it falls in his way, is only incidental, and even then the greatest pains are taken to put, in the most forcible manner, whatever the confuted person could

say. In arguing against Protagoras (who is treated with a respect in marked contrast with the manner in which the Herakleiteans, and some materialistic philosophers, supposed to be the school of Demokritus, are referred to), Sokrates laments the necessity of disputing his opinion when he is not present nor even alive to defend it; says that as he and his friends are not here to help their doctrine, the obligation lies on their adversaries to do it; and fulfils that obligation by a discourse of some length, which, like those of Glaukon and Adeimantus in the Republic, is a monument of the essential fairness of Plato's mind. The Theætetus contains some of Plato's acutest examinations of certain speculative questions which often recur in other dialogues: among others the difference between Knowledge and True Opinion, *ὁρθή* or *ἀληθὴς δόξα*. This distinction gave Plato great trouble, and the whole subject of the truth and falsity of opinions was full of intricacy and logical embarrassment to him and to his contemporaries. Among other points, it appears to have been a serious puzzle to them, in what manner false opinions could be possible; how we can think that which is not—a non-entity—any more than we can touch, or eat, or drink that which is not. It is surprising how often Plato returns to this perplexity. More than half the Sophistes is devoted to the discussion of it, merely in a parenthesis. As a specimen of the stumbling-blocks which the early metaphysical inquirers found in their path, as well as a striking example of the diversity of the points of view of different dialogues, we will quote a passage from Mr. Grote on this subject: —

'How is a false proposition possible? Many held that a false proposition and a false name were impossible, that you could not speak the thing that is not, or Non-Ens ($\tau\acute{o} \mu\eta \acute{o}\nu$): that such a proposition would be an empty sound, without meaning or signification; that speech may be significant or insignificant, but could not be false, except in the sense of being unmeaning. Now this doctrine is dealt with in the *Theætétus*, *Sophistês*, and *Kratylus*. In the *Theætétus*, Sokratês examines it at great length, and proposes several different hypotheses to explain how a false proposition might be possible; but ends in pronouncing them all inadmissible. He declares himself incompetent, and passes on to something else. Again, in the *Sophistês*, the same point is taken up, and discussed there also very copiously. The Eleate in that dialogue ends by finding a solution which satisfies him—(viz. that $\tau\acute{o} \mu\eta \acute{o}\nu = \tau\acute{o} \xi\epsilon\rho\omicron\nu \tau\omicron\upsilon \acute{o}\nu\tau\omicron\varsigma$). But what is remarkable is, that the solution does not meet any of the difficulties propounded in the *Theætétus*; nor are these difficulties at all adverted to in the *Sophistês*. Finally in the *Kratylus*, we have the very same doctrine, that false affirmations are impossible,—which both in the *Theætétus* and in the *Sophistês* is enunciated, not as the decided opinion of the speaker, but as a problem which embarrasses him—we have this same doctrine averred unequivocally by Kratylus as his own full conviction. And Sokratês finds that a very short argument, and a very simple comparison, suffice to refute him. The supposed "aggressive cross-examiner," who presses Sokratês so hard in the *Theætétus*, is not allowed to put his puzzling questions in the *Kratylus*.

'How are we to explain these three different modes of handling the same question by the same philosopher? If the question about Non-Ens can be disposed of in the summary way which we read in the *Kratylus*, what is gained by the string of unsolved puzzles in the *Theætétus*, or by the long discursive argument in the *Sophistês*, ushering in a new solution no way satisfactory? If, on the contrary, the difficulties which are unsolved in the *Theætétus*, and imperfectly

solved in the *Sophistês*, are real and pertinent,—how are we to explain the proceeding of Plato in the *Kratylus*, when he puts into the mouth of *Kratylus*, a distinct averment of the opinion about Non-Ens, yet without allowing him, when it is impugned by *Sokratês*, to urge any of these pertinent arguments in defence of it? If the peculiar solution given in the *Sophistês* be the really genuine and triumphant solution, why is it left unnoticed both in the *Kratylus* and the *Theætêtus*, and why is it contradicted in other dialogues? Which of the three dialogues represents Plato's real opinion on the question?

'To these questions, and to many others of like bearing, connected with the Platonic writings, I see no satisfactory reply, if we are to consider Plato as a positive philosopher, with a scheme and edifice of methodized opinions in his mind; and as composing all his dialogues with a set purpose, either of inculcating these opinions on the reader, or of refuting the opinions opposed to them. This supposition is what most Platonic critics have in their minds, even when professedly modifying it. Their admiration for Plato is not satisfied unless they conceive him in the professorial chair as a teacher, surrounded by a crowd of learners, all under the obligation (incumbent on learners generally) to believe what they hear. Reasoning upon such a basis, the Platonic dialogues present themselves to me as a mystery. They exhibit neither identity of the teacher, nor identity of the matter taught: the composer (to use various Platonic comparisons) is Many, and not One—he is more complex than *Typhôs*.'

There is a similar discrepancy in the view taken by Plato, in different dialogues, of the distinction between True Opinion and Knowledge. In the *Menon*, it would seem as if the two were much the same, except that Opinion* is 'evanescent, and will not stay in the mind, while Knowledge is permanent and ineffaceable.'

True Opinion is converted into Knowledge, when bound down (δεδεμένον) 'by a chain of causal reasoning' (αἰτίας λογισμῶ). This binding process, it is added, is ἀνάμνησις, or reminding, and can only be accomplished by questioning, sufficiently repeated and diversified. What the ἀνάμνησις does is rather differently defined in the Phædrus; it there generates the apprehension of the general Concept,* which in that dialogue means the Self-existent Idea. In other dialogues the view taken is very similar, minus the idea of Reminiscence. Knowledge is that of which a rational explanation can be given; that which is guaranteed by both arms of the dialectic process, being able to resist all confutation† and having been arrived at by a correct use of the logical process of Division, διαίσεις κατ' εἶδη, terminating in an unimpeachable Definition. Anything short of this is only Opinion. We here have what is rightly regarded as the characteristically Platonic view of the subject; but it is remarkable that this very definition of knowledge, ἀληθὴς δόξα μετὰ λόγου, is one of those propounded by Theætetus, and, after a long discussion between him and Sokrates, abandoned. The most elaborate, but the obscurest exposition we find of this subject, is in the sixth and seventh books of the Republic. We cannot give it at length, but its leading point is, that knowledge is of Forms or Ideas, while Opinion 'relates to the world of sense, composed of mere images of those Forms.‡ But the knowledge of Forms is only to be acquired by Dialectics.†

* Συνιέναι κατ' εἶδος λεγόμενον, ἐκ πολλῶν ἰὼν αἰσθήσεων εἰς ἓν λογισμῷ συναρπύμενον.—(Plato, Phædrus, p. 249.)

† Grote, vol. iii. pp. 84-93.

‡ Ibid. pp. 101, 102.

Among views so contradictory, and in which no common conviction or purpose appears, what worth, it may be asked, is there to us in the investigations? Besides the worth of their Method, they have, though in unequal degrees, a value in their substance; 'not' in the conclusion, but in the premises for and against it. In this sense all the dialogues have value, and all the same sort of value, though not all equal in amount. In different dialogues, the subject is set before you in different ways; with remarks and illustrations sometimes tending towards one theory, sometimes towards another. It is for you to compare and balance them, and to elicit such result as your reason approves. The Platonic dialogues require, in order to produce their effect, a supplementary responsive force, and a strong effective reaction, from the individual reason of the reader: they require moreover that he shall have a genuine interest in the process of dialectic scrutiny (*τὸ φιλομαθές, φιλόλογον*), which will enable him to perceive beauties in what would be tiresome to others.'

As regards Plato himself, the probability is that there was a period in his life when he was, on merely speculative points, a real Seeker, testing every opinion, and bringing prominently forward the difficulties which adhere to them all; and that during this period many of his principal dialogues were written, from points of view extremely various, embodying in each the latest trains of thought which had passed through his mind on the particular subject. That the difficulties of his own suggesting, even after he had definitively identified himself with the opinions to which they apply, are hardly ever solved, seems only expli-

cable on the supposition that he had ceased to care about solving them, having come to think that insoluble difficulties were always to be expected. He certainly, if we trust his Seventh Epistle, was then of opinion that no verbal definition of anything can precisely hit the mark, and that the knowledge of what a thing is, though not attainable till after a long and varied course of dialectic debate, is never the direct result of discussion, but comes out at last (and only in the happier natures) by a sort of instantaneous flash. He probably became indifferent to speculation for its own sake, ceased to expect that any theoretical position would be found unassailable, and no longer cared for anything but practical results. In his latest compositions there is no abatement of ethical earnestness, but 'the love of dialectic, and the taste for enunciating difficulties even when he could not clear them up, died out within him.' He almost became infected with the misology so impressively deprecated in his own *Phædon*, and an example among many that this misology is not always, as there represented, the road to scepticism, but still oftener to the most intolerant affirmative dogmatism.

The ethical and political doctrines of Plato are really the only ones which can be regarded as serious and deeply-rooted convictions. At the head of these, or only second after his faith in the exclusive eligibility of the just life, must be placed the opinion common to him with Sokrates, that Virtue is a branch of Intelligence, or Knowledge. His best argument for this opinion is, that not only all the external things we value, such as health, strength, and pecuniary

means, but all that we regard as virtues—*courage*, *temperance*, and the rest—may be so used as to do harm instead of good: they all require a discriminating faculty to decide when they ought to be employed and when not; and this, which is the distinctive element of virtue, is a part of Knowledge. Though the premises of this argument are profoundly true, they only prove that the knowledge in question is one of the conditions of virtue, but not that it is virtue itself; something else besides the knowledge of what is right being necessary to induce us to practise it. We know what would have been Plato's answer to this objection. He would have said, that the further condition required is also a knowledge, the knowledge that to do right is good; no one desires evil knowing it to be evil; it is desired because it is believed to be good. But even if Plato had proved, as completely as he thought he had, that to do wrong is the greatest evil which can befall the wrong-doer, it would have remained a question whether the habitually vicious man is capable of having this belief impressed upon him; whether the evidence that happiness is to be found in virtue alone, can reach a mind not prepared for it by already possessing the virtues of courage, temperance, &c., not to mention justice, the most fundamental of all.

This exaltation of Knowledge—not Intellect, or mere mental ability, of which there is no idolatry at all in Plato, but scientific knowledge, and scientifically-acquired craftsmanship, as the one thing needful in every concern of life, and pre-eminently in government—is the pervading idea in Plato's practical doctrines. He derived it from Sokrates, who says

Xenophon*) 'considered as kings and rulers not those who wield the sceptre, or those who have been chosen by the incompetent (ὕπὸ τῶν τυχόντων), nor those who have 'drawn the successful lot, or who by force or deceit have got into the highest place, but those who *know how to rule.*' What constitutes the man who knows how to rule, is the subject of an important dialogue, the *Politikos*. We there learn that he is one of the rarest of human beings; that the greatest concern of a State is to obtain such a man, and place him at the head of it; that when so placed, his power cannot be too absolute; to limit him by laws, even of his own making, being as absurd as if a scientific physician were required never to deviate from his own prescriptions. This exclusive right of the most capable person to rule—a principle strenuously asserted by Plato against the theory and practice of all governments (modern as well as ancient); and the doctrine that when this Capable Person has been obtained, the rest of the community have nothing to do but to obey him—form a theory of government which must be quite to the taste of Mr. Carlyle; but he is probably less pleased with the further proposition added by Plato, that the depositary of this divine right is not found, but 'made, and that his qualification is Science; a philosophic and reasoned knowledge of human affairs—of what is best for mankind. When this is possessed, it is a far surer guide than laws, which cannot possibly be adapted to all individual cases; but when this scientific wisdom cannot be had, laws are better than any mere counterfeit of it:—

The true government of mankind is the scientific or

Memor. ii. 9, 10.

† Grote, vol. ii. pp. 483-6.

artistic ; whether it be carried on by one, or a few, or many—whether by poor or rich, by force or consent—whether according to law, or without law.' But 'true science or art is not attainable by many persons, whether rich or poor; scarcely even by a few, and probably by One alone; since the science or art of governing men is more difficult than any other science or art. But the government of this One is the only true and right government, whether he proclaims law or governs without law, whether he employs severity or mildness—provided only he adheres to his art, and achieves its purpose, the good and improvement of the governed. He is like the true physician, who cuts and burns patients, when his art commands, for the purpose of curing them. He will not be disposed to fetter himself by fixed general laws; for the variety of situations and the fluctuation of circumstances is so perpetual, that no law can possibly fit all cases. He will recognise no other law but his art. If he lays down any general formula or law, it will only be from necessity, because he cannot be always at hand to watch and direct each individual case; but he will not hesitate to depart from his own formula whenever Art enjoins it. That alone is base, evil, unjust, which he with his political science or art declares to be so. If in any particular case he departs from his own declaration, and orders such a thing to be done, the public have no right to complain that he does injustice. No patient can complain of his physician if the latter, acting upon the counsels of his art, disregards a therapeutic formula. All the acts of the true Governor are right, whether according or contrary to law, so long as he conducts himself with art and intelligence—aiming exclusively to preserve the people, and to render them better instead of worse. How mischievous would it be . . . if we prescribed by fixed laws how the physician and the steersman should practise their respective arts; if we held them bound to peremptory rules, punishing them whenever they departed from those rules, and making them accountable before the Dikastery, whenever any one accused them of doing so—if we consecrated these rules and dogmas, forbidding all criticism or censure upon them, and

putting to death the free inquirer as a dreaming, prosy Sophist, corrupting the youth and inciting lawless discontent! How absurd, if we pretended that every citizen did know, or might or ought to know, these two arts; because the matters concerning them were enrolled in the laws, and because no one ought to be wiser than the laws! Who would think of imposing any such fetters on other arts, such as those of the general, the painter, the husbandman, the carpenter, the prophet, the cattle-dealer? To impose them would be to render life, hard as it is even now, altogether intolerable. Yet these are the trammels under which in actual cities the political Art is exercised.

'Such are the mischiefs inseparable, in greater or less degree, from fixed and peremptory laws. Yet grave as these mischiefs are, there are others yet graver, which such laws tend to obviate. If the Magistrate appointed to guard and enforce the laws, ventures to break or contravene them, simulating, but not really possessing, the Art or science of the genuine Ruler, he will make matters far worse. The laws at any rate are such as the citizens have been accustomed to, and such as give a certain measure of satisfaction. But the arbitrary rule of this violent and unscientific Governor is a tyranny, which is greatly worse than the laws. Fixed laws are thus a second best; assuming that you cannot obtain a true scientific, artistic Governor. If such a man could be obtained, men would be delighted to live under him. But they despair of ever seeing such a character, and they therefore cling to fixed laws, in spite of the numerous concomitant mischiefs. These mischiefs are indeed so serious, that when we look at actual cities, we are astonished how they get on under such a system; and we cannot but feel how firm and deeply-rooted a city naturally is. We see therefore . . . that there is no true polity—nothing which deserves the name of a genuine political society—except the government of one chief, scientific or artistic. With him laws are superfluous, and even inconvenient. All other polities are counterfeits; factions and cabals rather than governments, delusions carried on by

tricksters and conjurors. But among these other *polities* or sham-polities, there is a material difference as to greater or less badness; and the difference turns upon the presence or absence of good laws. Thus, the single-headed government, called monarchy (assuming the Prince not to be a man of science or art) is the best of all the sham-polities, if the Prince rules along with and in observance of known good laws; but it is the worst of them all, if he rules without such laws, as a despot or tyrant. Oligarchy, or the government of a few, if under good laws, is less good than that of the Prince under the same circumstances—if without such laws, is less bad than that of the despot. Lastly, the government of the many is less good under the one supposition, and less bad under the other. It is less effective, either for good or for evil. It is in fact less of a government; the administrative force being lost by dissipation among many hands for short intervals; and more free play being thus left to individuals. Accordingly, assuming the absence of laws, democracy is the least bad or most tolerable of the six varieties of sham-polity. Assuming the presence of laws, it is the worst of them.'

The ideal of government expressed in this passage, though expanded and minutely applied in other works, is never materially varied. Of the two detailed treatises on Government, in the dialogue form, which we have from Plato, the *Republic* and the *Leges*, the former is a delineation of the best form of society, under the unrestricted authority of one of a very small number, scientifically trained and fitted for the function of rulers. The *Leges* must be understood (and that is its best excuse) as a set of directions for the construction and preservation of his second-best State, in which, the scientific ruler not being forthcoming, an imperfect substitute is provided in the form of laws, which he seems to have thought would

only answer the purpose by being not only inviolable but unalterable. Accordingly, in the ideal commonwealth of the Republic, 'there is no responsibility of any kind—no provision for written laws or courts of justice; the wisdom of the scientific rulers being 'wholly trusted' to, for doing without such things, or providing them as far as required. The whole energy of Plato's constructive intellect is concentrated on the means of sifting the most gifted natures out of the body of citizens, and educating them from the earliest infancy to the age of fifty, by which time, and not before, it is expected that a very few, or at least one, competent scientific governor may be met with among them. This, and the intellectual and emotional training of the remainder of the people, so that they shall willingly obey and second these rightful chiefs, compose the whole machinery of the Republic. In *Leges*, on the contrary, where no such scientific rulers are looked for, there is an elaborate and minute system of positive laws, carrying legal regulation down to the details of common life, and accompanied by all the ordinary apparatus of courts of justice; magistrates of various kinds chosen for short periods, by processes from which even the democratic Lot is not wholly excluded—and systematic accountability of all persons in office, in the Athenian manner, after the expiration of their term, to an authority in which the whole body of citizens have a qualified participation. The author does not disguise that his government is not the abstractedly best; and records his persistence, on some principal points, in those doctrines of the Republic which are put in abeyance in the *Leges*, where the community ostensibly contemplated is an actual Cretan colony.

While Plato has thus two independent plans for the constitution of a political society, his notion of the end to be aimed at never varies. The business of rulers is to make the people whom they govern wise and virtuous. No political object but this is worth consideration. With respect to the other things usually desired by men and communities, he does not indeed always maintain the scornful tone assumed in the *Gorgias*, where all the statesmen of Athens, even the eminent ones of old—Miltiades, Themistokles, Kimon, Perikles—are reproached for having ‘filled the city with harbours, and docks, and fortifications, and tributes, and similar rubbish’ (*φλυναρῶν*), instead of improving their desires, ‘the only business of a good citizen.’* In other places (as in the *Second Alcibiades*, *Euthydemus*, *Menon*, *Leges*,) he contents himself with saying, that it is better not to have such things at all, than to have them, if devoid of the wisdom without which they cannot profit the possessor; or, with Sokrates in the *Apologia*, that wealth does not produce virtue, but virtue wealth, and all other things that are desirable. But, either as the sole desirable thing, or as the means of obtaining all others, the wisdom and virtue of the citizens (considered as identical, are the only proper end of government.

In the political theory thus conceived by Plato—confining ourselves to his scheme of the ideally best, and neglecting his compromise with existing obstacles in the comparatively tame production of his decline—there are two things specially deserving of remark. First, the vigorous assertion of a truth, of trans-

cendent importance and universal application—that the work of government is a *Skilled Employment*; that governing is not a thing which can be done at odd times, or by the way, in conjunction with a hundred other pursuits, nor to which a person can be competent without a large and liberal general education, followed by special and professional study, laborious and of long duration, directed to acquiring, not mere practical dexterity, but a scientific mastery of the subject. This is the strong side of the Platonic theory. Its weak side is, that it postulates infallibility, or something near it, in rulers thus prepared; or else ascribes such a depth of comparative imbecility to the rest of mankind, as to unfit them for any voice whatever in their own government, or any power of calling their scientific ruler to account. The error of Plato, like most of the errors of profound thinkers, consisted in seeing only one half of the truth; and (as is also usual with such thinkers) the half which he asserted, was that which he found neglected and left in the background by the institutions and customs of his country. His doctrine was an exaggerated protest against the notion that any man is fit for any duty; a phrase which is the extreme formula of that indifference to special qualifications, and to the superiority of one mind over another, to which there is more or less tendency in all popular governments, and doubtless at Athens, as well as in the United States and in Great Britain, though it would be a mistake to regard it in any of them as either universal or incurable.

But though Plato had no hesitation in allowing absolute power to the scientific ruler when he had got

one, the superiority of his genius is displayed in his clear perception of the difficulties with which this scheme of government was beset, and in the boldness with which he grappled with the problem; daring all things, however opposed to the common notions of his time (and of ours), if he could see his way to removing the rocks and shoals which threatened to be fatal to his commonwealth. The mental superiority which gives the divine right to rule, did not, in his opinion, consist in being able forcibly to seize the powers of government, and retain them by sternly repressing all active opposition and silencing every disapproving voice. This was a common enough phenomenon in Plato's time, not quite unknown in ours; but the superiority which Plato required in his ruler was of a very different kind. According to him, it was precisely the young men most gifted by nature, and most capable of being trained to the character of genuine rulers, that when perverted by the false standard of good and evil prevailing in existing society, and delivering themselves up to selfish and lawless ambition, fall into the deep-dyed iniquity of the Tyrannus. In that combination of profound philosophy with sublime eloquence and rich poetic imagination which composes the later books of the Republic, there is a moving picture of the mode in which society, by its temptations and its wrongly-placed applauses and condemnations, corrupts these originally fine natures, and the portraiture of the full-blown Tyrannus, in the consummation of his guilt, his hatefulness to gods and men, the depth of his inward misery, and the retribution that awaits him, generally in this life, but certainly in a world to come, is one of the best known

and most impressive passages in Plato. The Platonic ruler or rulers, as already remarked, are not found, but made; and the problem of making them was conceived by him in all its magnitude and difficulty. It could only be achieved by centering upon them, and upon the class from whom they were to be selected, every kind of tuition and training, intellectual, emotional, and practical, that could help to form the character required, and by withdrawing them utterly from the influence of those conditions of ordinary life, which give rise to inclinations and to a type of character disqualifying for the pure and noble use of irresponsible power.

To this purpose belongs the proscription of all such tales and legends of the gods (legends as sacred to the Greeks as the narratives of the Old and New Testaments to the ordinary Christian) as represented them to be the authors of any evil, or imputed to them unjust commands; or human weaknesses, or ascribed to them, or their descendants the Heroes, any acts which would be wicked or disreputable if done by ordinary human beings. These stories, Plato affirms, are not true; but were they so, they should not be suffered to be repeated and believed. Other legends, of a moral and elevating character, should be composed (a thing considered by him quite within the competence of Government), and the people brought up in the belief of them from their first childhood. To the same head belongs the exclusion from the Republic, not (as is sometimes asserted) of all poets, but of those who will not consent to the expurgation from their poems of all sentiments and opinions which the philosophic rulers deem injurious: for instance, that death, or the life

after death, is fearful and horrible; and especially that most pernicious opinion, that there can be happiness without virtue, or that virtue is not itself the summit of happiness. Certain kinds of poetry however, the epic and dramatic, are absolutely banished, in common with all other indiscriminately mimetic or imitative arts. Art ought not to represent, either to the senses or to the mind, the likeness of anything but what is good and noble; nor ought the citizens to recite, or read, or hear recited, an imitation of the thoughts, feelings, or conduct, of bad, or degraded, or weak and foolish persons. The same severe restrictions were placed on music, a most important agent of good or evil in the estimation of Greeks, whose popular education (except the gymnastic and military elements) was chiefly emotional. No tunes or measures were tolerated in the Republic, but such as were licensed by the authorities, by whom all that were of a wailing, a relaxing, or a voluptuous character, must be forbidden, those only being retained which soothe and mitigate the violent emotions, or which inspire active energy. To the same educational purpose belong the peculiar institutions of Plato respecting property and marriage, which have given some scandal to posterity; and would probably have given much more, if Plato had been suspected of a *penchant* for scepticism and materialism, instead of being admired as their chief enemy. The explanation of this portion of his scheme is very simple. It was not intended for the citizens generally, but for the *φύλακες* or military profession, from whom the prince or the ruling elders were selected, and who were the executors of their orders and the instruments of their government. This armed body

having the remaining citizens entirely at their mercy, all was lost if they preferred their private interest to that of the public; and Plato well knew, even with the most perfect education he could give them, how little chance they had of escaping this perversion. Since it did not consort with his idea of scientific government to give the unscientific multitude even a joint authority in their own affairs, there was only one mode of protection left; those in command must have no private interests of their own to care for. The other citizens have each their family and property, but the guardians must have nothing which they can call their own. Their maintenance must be temperately provided at a common table by the State; they must have no private possessions, and must not know their own children. The object is that which the Catholic Church seeks to obtain by the celibacy of its clergy, and the communism of its monastic orders; exclusive devotion to the purposes of their institution. Whatever else may be justly said against this Platonic conception, it deserves any name rather than that of a toleration of licentiousness; for it leaves less to individual inclination than any existing practice, the public authorities deciding (within the age appointed for 'producing children for the city') who should be united with whom. Mr. Grote truly remarks, that with the customs of the Platonic commonwealth, and the Platonic physical and mental education common to both sexes, the passion between them would be likely to be reduced to its very lowest degree of power; a result decidedly intended and calculated on by Plato in the *Leges*.

Though not expressly remarked, it is continually

visible in Mr. Grote's book, as well as in the works themselves, how strong a hold the idea of the Division of Labour had taken on Plato's mind. He propounds it as explicitly as Adam Smith, at the beginning of his delineation of the natural constitution and growth of a State; and it governs all the arrangements of his ideal Republic. To use his own phrase, there shall be no double or triple men in the commonwealth; each does one thing, and one only; in order that every one may have that to do for which he has greatest natural aptitude, and that each thing may be done by the person who has most studied and practised it. Civil justice in a commonwealth, which furnishes him with the type, and illustrative exemplar of justice in an individual mind, consists in every person's doing his own appointed business, and not meddling with that of another.* An artificer must not usurp the occupation of another artificer; rulers alone must rule, guardians alone fight, producers alone produce and have the ownership of the produce. When these limits are observed, and no one interferes in the legitimate business of some one else, the community is prosperous and harmonious; if not, everybody has something which concerns him more nearly than the true discharge of

It must be noted as one more of the contradictions between different dialogues, that when this same requisite, the exclusive attention of every person to the thing which he knows, is suggested in the *Charmides* as the essence or definition of *σωφροσύνη*, Sokrates not only objects to it as such, but doubts whether this restriction is of any great benefit, since it does not bestow that which is the real condition and constituent of well-being, the knowledge of good and evil. (See Grote, vol. i. p. 489.)

Mr. Grote's Remarks on the Platonic Republic are perhaps the most striking and admirable part of his whole work—full of important matter for study.

his own function ; the energies of the different classes are distracted by contests for power, and the State declines into some one of the successive gradations of bad government, which a considerable portion of the Republic is employed in characterizing. The demand for a Scientific Governor, not responsible for any part of his conduct to his unscientific fellow-citizens, is part of this general conception of Division of Labour, and errs only by a too exclusive clinging to that one principle.

It is necessary to conclude ; though volumes might easily be occupied with the topics on which Plato's compositions throw light, either by the truths he has reached, by the mode of his reaching them, or by his often equally instructive errors. We would gladly also have quoted more copiously from Mr. Grote ; having said little or nothing of the important discussions, on all the principal topics of Plato, which he has, in this work, incidentally contributed to the philosophy of the age from the stores of his richly endowed mind. The point of view from which these topics are treated, as all acquainted with Mr. Grote's writings would expect, is that of the Experience philosophy, as distinguished from the Intuitive or Transcendental ; and readers will esteem the discussions more or less highly, according to their estimation of that philosophy ; but few, we think, will dispute that Mr. Grote, by this work, has placed himself in a distinguished rank among its defenders, in an age in which it has been more powerfully and discriminatingly defended than at any former time. For further knowledge we must refer to the work itself, which

will not only be the inseparable companion of Plato's writings, but which no student, of whatever school of thought, can read without instruction, and no one who knows anything of philosophy or the history of philosophy, without admiration and gratitude.

WORKS BY THE SAME AUTHOR.

**THREE ESSAYS ON RELIGION:
NATURE; THE UTILITY OF RELIGION; THEISM.**
Third Edition. Octavo, 10s. 6d.

AUTOBIOGRAPHY.
Fourth Edition. Octavo, price 7s. 6d.

A SYSTEM OF LOGIC, RATIOCINATIVE AND INDUCTIVE.
Eighth Edition. Two volumes. Octavo, 25s.

**ESSAYS ON SOME UNSETTLED QUESTIONS OF
POLITICAL ECONOMY.**
Octavo, 6s. 6d.

PRINCIPLES OF POLITICAL ECONOMY.
Seventh Edition. Two volumes. Octavo, 30s.
People's Edition. Crown octavo, 5s.

ON LIBERTY.
Fifth Edition, 7s. 6d.
People's Edition, 1s. 4d.

THOUGHTS ON PARLIAMENTARY REFORM.
Second Edition, 1s. 6d.

DISSERTATIONS AND DISCUSSIONS.
Three volumes. Octavo, price 36s.
In preparation, Vol. IV.

**CONSIDERATIONS ON REPRESENTATIVE
GOVERNMENT.**
Third Edition. Octavo, 9s.
People's Edition. Crown octavo, 2s.

UTILITARIANISM.
Fifth Edition. Octavo, 5s.

**EXAMINATION OF SIR WILLIAM HAMILTON'S
PHILOSOPHY.**
Fourth Edition. Octavo, 16s.

WORKS BY THE SAME AUTHOR—continued.

INAUGURAL ADDRESS AT THE UNIVERSITY OF
ST. ANDREWS.

Second Edition. Octavo, 5s.

'People's Edition,' Crown octavo, 1s.

ENGLAND AND IRELAND.

Fifth Edition. Octavo, 1s.

THE SUBJECTION OF WOMEN.

Third Edition. Post octavo, 5s.

CHAPTERS AND SPEECHES ON THE IRISH LAND
QUESTION.

Crown octavo, price 2s. 6d.

PROGRAMME OF THE LAND TENURE REFORM
ASSOCIATION.

With an Explanatory Statement.

Price SIXPENCE.

ANALYSIS OF THE PHENOMENA OF THE HUMAN MIND.

By JAMES MILL.

A New Edition, accompanied by Notes, illustrative and critical.

By ALEXANDER BAIN, ANDREW FINDLATER, and GEORGE GROTE.

Edited, with additional Notes, by JOHN STUART MILL.

Two volumes. Octavo, price 28s.

A FRAGMENT ON MACKINTOSH.

By JAMES MILL.

Octavo, price 9s.

London: LONGMANS and Co., Paternoster Row.

AUGUSTE COMTE AND POSITIVISM.

By JOHN STUART MILL.

London: N. TRÜBNER & Co., 57 & 59, Ludgate Hill.

